

IRISH MEMBERS
AND
ENGLISH GAOLERS

THE TREATMENT OF POLITICAL OFFENDERS.

BY THE RIGHT HON.

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PREFACE

THE treatment in prison of a number of Irish members of Parliament and other persons, convicted of political offences under the Crimes Act of 1887, has been and continues to be substantially that of common criminals, in spite of the recent modification of the Prison Rules.

It was to be hoped and expected that the recent committee, presided over by Lord Aberdare, appointed by the Government to consider certain of the Prison Rules, would be able to deal with the subject of the treatment of political prisoners. It appears, however, that the committee was expressly prohibited entering upon this subject, and its enquiry, thus limited, has been of very little value.

Under these circumstances, I have thought it well to deal with the whole subject, and to put together in a compendious form an account of the circumstances under which these Irish members and others have been imprisoned, of the treatment which they have received, and of the effect of the recent changes in the Prison Rules.

I have also given a short account of the past treatment

of political prisoners in English and Irish gaols, and of the practice of other countries on this subject.

As regards the past treatment of political prisoners in England and Ireland, I have been greatly indebted to a series of most able and exhaustive letters on the subject, published in the *Freeman's Journal*, in the course of the present year, by Dr. Sigerson, late a member of the Royal Commission on Prisons. Some of the cases he mentions I had already investigated, but others were new to me, and I have found them of great value in throwing light upon the subject. It is to be hoped that these letters will be republished in a popular form.

It is well the English people should understand that they are practically in the position of gaolers to these Irish members and others imprisoned under the Crimes Act. It was by the votes of a majority of English representatives in Parliament, and in opposition to those of an overwhelming majority of the representatives from Ireland, and also of those from Scotland and Wales, that the Crimes Act was passed, and by the same votes all the indignities and sufferings of the gaol have been, and to a great extent continue to be, enforced on these political offenders.

Since the following pages have been in print, the action for libel on the part of Mr. W. O'Brien against Lord Salisbury, referred to in page 88, has been determined by the verdict of a special jury at Manchester in favour of the defendant. I gather from the course of the proceedings, from the line taken by the counsel for Lord Salisbury, and by the judge who tried the case, that the ground on which the jury gave their verdict was that, having regard to all the

surrounding circumstances, and to the strong language used by Mr. O'Brien himself in *United Ireland*, when writing of his political opponents, the words of Lord Salisbury amounted to no more than a fair comment on Mr. O'Brien's speech, and did not mean that the latter intended to incite the people to crime. The result of the trial, therefore (which is under appeal), does not affect the general tenor of my argument.

G. S. L.

July 23, 1889.

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IRISH MEMBERS

AND

ENGLISH GAOLERS

CHAPTER I

DURING the last two years, and since the passing of the Crimes Act of 1887, no fewer than twenty-two out of the 103 representatives of Ireland in the House of Commons have been prosecuted, convicted, and imprisoned, many of them on two, three, or more different occasions, without trial by jury, for offences for the most part newly created by that Act, and which are not offences under any existing law in other parts of the United Kingdom, and which in all other cases could, under the ordinary law, have been only tried before juries. Of these twenty-two members, only three have escaped being treated, during some part, if not the whole period of their imprisonment, as common criminals and subjected to all the indignities, degradations, and hardships which are prescribed by law for crimes of a disgraceful character.

It may be doubted whether, ever in the previous history of representative institutions in any part of the world, it has occurred that one-fifth of the representatives of a country have been subjected to imprisonment, and treated as common criminals, for acts, for the most part, of a distinctly political character, and without criminality, in the true sense

of the term. More remarkable still is the fact that these members have not been subjected to this punishment by the will of the majority of the representatives of their own country. On the contrary, eighty-six out of the 103 Irish members have been in hearty sympathy with the actions of those of their colleagues who have been thus imprisoned and punished as common criminals. Nor has the policy been carried out by an overwhelming majority of the representatives of Great Britain, or by the force of public opinion. It has been by a party vote, and by a majority of English members only, that these coercive proceedings have been authorised or have escaped condemnation. For the first time in our history, or in the history of any country, has a penal law been passed and put in force in its severest form by a bare majority of a legislative assembly, for the purpose not merely of restraining and preventing, but of punishing the political acts of a minority of its members.

It may be worth while, therefore, for the purpose of making a protest against such proceedings, and of endeavouring to obtain amendment of the Prison Rules, so far as they affect political offenders, to examine in detail the cases which have occurred, and to discuss in principle the political questions involved in the treatment of such men as common criminals, by the light of past experience in this and other countries.

In doing so it is not intended to claim any special privilege or exemption for these men as members of the Legislature. They would be the last to put forward any such claim on their own behalf. Great numbers of other persons—priests, editors of newspapers, lawyers, merchants, tradesmen, farmers and peasants, including a few women and children—have been treated in the same manner, and have been subjected to the same indignities of the prison, for the like offences under the Crimes Act. There is, however, a strong *à priori* presumption that members of Parliament have been actuated by public motives in the course which they have

thought it right to pursue ; and at all events the question of the treatment of political prisoners can be conveniently discussed and illustrated by the cases of these members.

Whether the offences of which these men have been convicted were political in their character will be later discussed, when their details are more fully described ; but, on the assumption that they were political, there can be no doubt that the past practice of this country and of most other civilized countries has been to distinguish between the treatment of political offenders, and that of criminals who have been found guilty of acts ordinarily considered as crimes of a disgraceful kind. The existing law of this country, so far as it goes, is distinctly favourable to such a distinction, by prescribing that certain offenders of a political character shall be treated differently from common criminals ; while beyond these specified cases it will be shown that it is within the competency of the judges, who administer the law, to direct that such offenders shall not be treated as common criminals ; and, if they should not exercise this discretion, it is within the power of the Irish Government, by amendment of the Prison Rules, or of its own authority, to prescribe a treatment suitable to the cases.

The distinction between the treatment of political or quasi-political offenders and those guilty of ordinary crimes degrading in their character is clearly drawn by the Prisons Acts of England and Ireland. These Acts prescribe that persons convicted of sedition or of seditious libel shall be treated as first-class misdemeanants. No discretion, therefore, is left either with the judges who have to pass sentences in such cases, or with the Prisons Board. The offenders are absolutely entitled to be treated as first-class misdemeanants. The same treatment is also prescribed for those who have been committed to prison for contempt of court, a provision which, by analogy, should be extended by the discretion of the judges to other offences of a similar kind.

The Prisons Acts further provide a special treatment for those who are imprisoned for debt, and for those who fail to follow the direction of the judges to pay money to the Crown. The treatment prescribed for such persons is very nearly the same as that for first-class misdemeanants; practically there is no distinction. Although imprisonment for debt is nominally abolished, yet a large number of persons are sent to prison for neglect or refusal to pay debts, which in the opinion of the judges they are able to pay; and these persons are held to be entitled to the exemption in favour of debtors from the treatment of common criminals. In fact, fraudulent and contumacious debtors are treated with the same favour as ordinary debtors. It would seem that the same treatment should be accorded to those who have been subjected to simple fine for some minor breach of the law, but who go to prison from inability to pay the fine, or because from scruples of conscience they will not pay. But it is not so. It has been held by the judges that such persons when imprisoned may be treated as common criminals. It is under this ruling that persons, who have refused to comply with the Vaccination Acts, have been imprisoned as common criminals. The only penalty prescribed by the Acts is that of fine, and it is only from inability or refusal to pay the fine that imprisonment can take place. It follows that in these and other analogous cases of non-payment of fines, the rich man who disobeys the law is let off with the payment of a small fine, while the poor man who is unable to pay is sent to prison, and is there treated as a common criminal, while the fraudulent or contumacious debtor is relieved from such treatment in gaol. This is certainly a most unfair privilege for the rich. Whatever exemptions are accorded to debtors ought to be extended to those who go to prison from inability to pay fines for the infraction of such regulations.

It is scarcely necessary to point out the very great diffe-

rence in the treatment of prisoners, who are first-class misdemeanants or debtors, and of those who have been sentenced as ordinary criminals. The former are treated with great consideration : they retain their ordinary dress ; they are allowed to provide themselves with food from outside the prison ; they are permitted to receive their friends without the presence of a prison official ; they are allowed to correspond with their friends ; they can supply themselves with literature and writing materials ; they can even conduct their business from within the prison ; they are simply kept under restraint for the period prescribed by the sentence. The treatment of the ordinary criminal differs in these respects :—

1. On entering the gaol he is put into a bath, and his hair is cut close.

2. He is forced to wear the prison dress.

3. He is compelled to sleep (if sleep be possible to him) for the first month on a plank bed without a mattress, and for the second and third months of his imprisonment in the same manner for two days a week.

4. He is fed on prison fare, which for the first month is very insufficient for a man in good health, and even after that is very meagre and unpalatable.

5. He is required to pick a certain amount of oakum every day.

6. He is compelled to take exercise in company with other common criminals.

7. He is compelled to clean out his cell.

8. He is deprived of the means of occupying his mind by reading or writing. The only book allowed him during the first month is the Bible.

9. He is not permitted to correspond with his friends.

10. He is not allowed to receive visits from his friends and relatives, except after long intervals with very close

restrictions, and even then the interview must be in the presence of a prison official.

To these is added 'hard labour' when the sentence so directs it.

It cannot be doubted that to educated men, and to men who have lived a life of even the most moderate ease and luxury, many of these prison rules as to the treatment of common criminals are extremely severe. Some of these regulations, such as the wearing of the prison dress and the clipping of the hair, are rather the symbols of degradation than actual hardships ; others, such as the plank bed and the prison fare, are purposely designed so as to be punishment, in the sense of inflicting some suffering or hardship on the prisoner. The worst of all such rules, however, to educated men is undoubtedly the deprivation of occupation for the mind in the shape of books or writing materials. This is a far graver punishment to such men than is 'hard labour' to those accustomed to manual labour ; it may be doubted whether any man can long endure this without injury to his mind or health. Where, however, educated men have been guilty of crimes in the ordinary sense of the term, of crimes degrading and disgraceful in their nature, it is right that no distinction should be drawn between them and other lower classes of criminals. These provisions of a degrading character should at least be carried out without distinction. The educated criminal should be made to feel the degradation of his action equally with the more vulgar criminal.

It will be seen that all these indignities and hardships, which distinguish the treatment of the common criminal from that of the first-class misdemeanant, have with rare exceptions been inflicted upon the Irish members and others convicted under the Crimes Act. Many of these members, in the early days of convictions under this Act, took issue with the prison authorities on the subject of the prison

dress as the symbol of all the other indignities. They protested against such treatment, and resisted to the point of compelling the prison officials to carry out the prison rules by force and personal violence. Their avowed object in thus resisting was to attract public attention to the whole subject of their treatment as common criminals. Others have not entered into a struggle with the prison staff, satisfied with the public protest made by Mr. W. O'Brien, M.P., Mr. Hooper, M.P., Mr. Sheehy, M.P., Mr. Carew, M.P., Mr. Mandeville, and others ; but all, or nearly all, have refused to comply with directions to take their exercise with common criminals, and have in consequence been in most cases deprived altogether of exercise, and have in many cases been punished for such refusal by being placed for two, three, or more days in punishment cells, and fed on bread and water.

It has already been pointed out that the treatment of prisoners, whether members of Parliament or others, convicted under the Crimes Act, as common criminals, is not prescribed by that Act, but is the subject of the discretion of the judges who passed sentences on them, and of the Government itself, responsible for the administration of the prisons.

It was clearly within the discretion of the Resident Magistrates who tried these cases, or of the County Court judges who dealt with them on appeal, to direct that those whom they convicted and sentenced to imprisonment should be treated as first-class misdemeanants. None of the Resident Magistrates have exercised this discretion in favour of any of the prisoners convicted under the Crimes Act, whatever their station in life, or whatever the offence of which they have been convicted. Four, however, of the County Court judges have, in cases of appeal before them, exercised this discretion.

The stipendiary magistrate of Dublin, Mr. O'Donel,

took the same view in the one case which was tried by him under the Crimes Act—that of Mr. T. D. Sullivan, M.P.

Mr. O'Connor Morris, the County Court judge for Sligo, admittedly one of the ablest and most experienced on the Bench, in five or six cases of members of Parliament and others which have come before him on appeal, has adopted the same course. Mr. De Moleyns, another County Court judge, followed the same course in the case of Mr. P. O'Brien, M.P., and Mr. Hickson dealt with Mr. Cox, M.P., in the same manner. Dr. Webb did the same in the case of Father McFadden, but declined to do so in the case of Mr. Blane, M.P., who was convicted at the same time and for the same offence. More recently he has mitigated the sentence on Mr. Conybeare, M.P., by directing him to be treated as a first-class misdemeanant.

Mr. O'Connor Morris has more than once stated his reasons for directing that such persons should be treated as first-class misdemeanants in cases which have come before him. In an appeal on behalf of Mr. Patrick O'Brien, M.P., Mr. Hayden and Mr. Byrne against their convictions by two resident magistrates for speeches made at a meeting in Roscommon, in which they were reported to have advocated the Plan of Campaign, and were sentenced to four months' imprisonment as common criminals, Mr. O'Connor Morris affirmed the sentences of imprisonment, but directed that Mr. Patrick O'Brien, M.P., and Mr. Hayden should be treated as first-class misdemeanants. In doing so he gave the following reasons :

‘I entirely concur in the doctrine that the law is to be no respecter of persons ; but, at the same time, it is impossible to say that imprisonment is the same punishment, or anything like the same punishment, to an educated man, to a man of intelligence, and to a person filling a certain social position, as it is to a person in a lower position of life. I do not think that I in any way exceed my powers when I except

these gentlemen from the harsh degradation of the ordinary prisoner. In cases of sedition, the Act prescribes that the accused shall be treated as first-class misdemeanants. The cases before me approach more nearly to sedition than to anything else. We cannot shut our eyes to the fact that these meetings are incidents of a great social movement that is taking place in this country, which is very serious and deeply to be lamented. But the offences of Mr. P. O'Brien and Mr. Hayden are not to be classed as infamous crimes or disgraceful crimes, or crimes that carry with them the detestation and abhorrence of mankind.'

In the case of Mr. Byrne, the judge did not mitigate the sentence. Mr. Byrne, he said, had held up a particular landlord by name to execration and practically to popular vengeance ; and language of this kind had in past times been followed by bloodshed. He therefore refused to direct that Mr. Byrne should be treated as a first-class misdemeanant.

In view of this high authority, and of the example of others of the County Court judges, it is remarkable that in no single one out of the many hundreds of cases that have come before them, including members of Parliament, priests, and others, convicted for every degree of offence under the Coercion Act, have any of the resident magistrates exercised their discretion in favour of the more lenient treatment. In all cases they have directed such persons to be treated as common criminals. This has been so even where they have sentenced members of Parliament to a month's imprisonment, from which there was no appeal to a Superior Court, and where they have refused to extend the sentence so as to enable an appeal to be made. It will be shown later that the explanation for this action is to be found in the fact that their official superiors, the Chief Secretary and the Prime Minister, have never spoken on the subject, whether in

Parliament or on the public platform, without justifying, defending, and applauding the treatment of those convicted under the Crimes Act as common criminals; and the resident magistrates have taken their cue from the Government rather than from County Court judges such as Mr. O'Connor Morris.

CHAPTER II

TURNING now to the individual cases subject to this policy, let us consider the nature of the acts for which offenders have been imprisoned and treated as common criminals. They include twenty-two members of Parliament, about eighteen priests, a very large number of professional men, editors of newspapers, lawyers, respectable tradesmen and well-to-do farmers, some 1,600 men of the classes of tenant-farmers and labourers, and some few women and children. It will not be contended that all these come under the true distinctions of political offenders; but a large proportion of the convictions have been in connection with writings in the Press, with speeches at public meetings, with the holding of meetings, with being members of the National League, and analogous acts. It will be contended that the bulk of these are purely political, and that such offenders would certainly not be treated as common criminals in any other country in Europe. Whether such acts should be treated as offences at all is another question, which it is not proposed to discuss. What is contended for is that such infractions of the Crimes Act are of a wholly different character from common crimes in the ordinary and popular sense of the term, and that the offenders should be treated as political offenders and not as common criminals. It may not always be easy to draw the line between acts done with political and disinterested motives and those committed with bad intent. But no attempt has been made to draw

such a line. All have been treated as crimes in the ordinary sense.

The earliest batch of cases arose out of the provision in the Crimes Act, making it unlawful to publish the reports of proceedings of meetings of the branches of the League in proclaimed districts. No one can contend that such offences were crimes in any true sense of the term. It is perfectly lawful to report such proceedings in any newspapers in England and Scotland. In Ireland, also, it is equally lawful to report the proceedings of similar meetings held in districts not proclaimed, although the speeches may be of identically the same character as those made at meetings in districts where the League is proclaimed. It was only to be expected, then, that the editors and owners of newspapers would make a vehement protest on behalf of the freedom of the Press and for the right of reporting proceedings. The Government commenced its action in this direction by prosecuting Mr. T. D. Sullivan, M.P., then Lord Mayor of Dublin, editor of the 'Nation,' Mr. Hooper, M.P. for South-East Cork, editor of the 'Cork Herald,' Mr. W. O'Brien, M.P., editor of 'United Ireland,' Mr. E. Harrington, M.P., editor of the 'Kerry Sentinel,' and Mr. Walsh, editor of the 'Wexford People.' Mr. Sullivan had the good fortune to be tried not by two resident magistrates, but by Mr. O'Donel, a stipendiary magistrate of Dublin. This gentleman found the Lord Mayor guilty of the charge, and sentenced him to two months' imprisonment, but directed that he should be treated as a first-class misdemeanant; and Mr. Sullivan served his time in prison in this capacity. Mr. William O'Brien, M.P., was charged before two resident magistrates for a similar offence, but his case was not proceeded with. Mr. Hooper, M.P., and Mr. E. Harrington, M.P., were less fortunate. Mr. Hooper was tried before two resident magistrates on thirteen different counts for publishing reports of meetings of suppressed branches of the League, was found

guilty on two of them, and was sentenced to a month's imprisonment on each as a common criminal. The sentences being for a month each for what was practically one offence, Mr. Hooper was deprived of the power of appealing to a superior Court, and the intentions of Parliament were thus evaded. He was the first to make a protest against being treated as a common criminal. He resisted being deprived of his clothes, and he was laid hold of by the warders, who forcibly deprived him of his clothes and dressed him in the prison garb. He was also directed to take exercise in company with two men who had been imprisoned for stabbing ; for refusing to submit to this indignity he was deprived altogether of exercise for twenty-four days. He was similarly confined for five other days, and fed on bread and water, for refusing to perform menial services. He came out of prison very much injured in health by his treatment. A long and expensive illness followed immediately, necessitating the performance of repeated operations on one of his eyes.

Mr. E. Harrington, M.P., was also convicted of the same offence and was sentenced by the magistrates to one month's imprisonment as a common criminal. He then asked that the sentence might be extended so as to enable him to appeal, but met with a refusal. He was treated in gaol exactly as any common criminal. He did not resist being clad in the prison garb. Whilst in gaol he was summoned to give evidence in another case, which was tried at Tralee, the principal town of the district which he represented in Parliament. The Government thought it right to exhibit this member of Parliament before his own constituents, in open Court, dressed in the prison garb as a common criminal.

Mr. T. Harrington, M.P., was prosecuted some weeks later for a similar offence under circumstances of a very peculiar nature. Mr. Harrington had been at one time in partnership with his brother, as owners of the 'Kerry Sentinel.'

He had, however, for some years taken no part in editing the paper, and had ceased to have any interest in it, but his name still remained on the register. As secretary of the National League it must have been well known to the Government that he had practically no part or concern in the management of his brother's paper. They determined, however, if possible, to obtain a conviction against him.

Mr. Harrington was engaged as counsel in an important case at Woodford, on behalf of a batch of men who were being prosecuted for attending a midnight meeting, which had been held at that place some seven weeks before. On the day previous to the hearing of this case, Mr. Harrington was suddenly arrested at Dublin, and was taken by the police to Tralee, where he was charged with the offence of publishing in the Tralee paper the proceedings of suppressed branches of the League. It has never been explained why such a violent and exceptional proceeding was considered necessary as that of arresting Mr. Harrington, instead of summoning him in the more usual manner.

It resulted to his clients at Woodford that they were deprived of their counsel, and when they applied for an adjournment of the case on this ground, so as to enable them to procure another counsel, their application was refused, although the long interval of seven weeks had been allowed to elapse between the alleged illegal meeting and the trial. The prosecutions were proceeded with. The accused were found guilty and were sentenced each to a month's imprisonment with hard labour, and the magistrates refused to extend the term of imprisonment so as to permit of an appeal to a higher tribunal. Mr. T. Harrington, on his part, was tried before two resident magistrates at Tralee, was found guilty of the offence of publishing the proceedings of a suppressed branch of the League, and was sentenced to imprisonment for six weeks. Fortunately, the sentence was such as to admit of an appeal. The convic-

tion, under all the circumstances, was so monstrous that the Government never dared to face public opinion by persisting in it, and the proceedings against Mr. Harrington were allowed to drop. In fact, there never was the slightest pretence for connecting Mr. T. Harrington with the Tralee paper, and the prosecution was as foolish and ill-judged as it was vindictive. It cannot be wondered at that public opinion in Ireland should attribute these proceedings to a desire to deprive the National League of the services of its secretary.

Several other persons, editors and owners of newspapers, were also prosecuted about the same time for the same offence, and on being convicted were sentenced to imprisonment as common criminals. The proceedings, from the Government point of view, were of no avail. The newspapers thus attacked continued as before, without the intermission of a single day, to publish the reports of the proceedings of the suppressed branches of the National League. The imprisonment of their editors and owners had no effect on their publication. Mr. T. D. Sullivan, while in prison, edited his paper as far as he could, though his removal from Kilmainham to Tullamore made it more difficult for him to do so. His newspaper continued to report the proceedings of suppressed branches. All the other editors, when they came out of gaol, publicly announced their intention to repeat the acts for which they had been punished, and day by day, or week by week, published reports of meetings of branches of the League in proclaimed districts. The Government was compelled to submit to defeat, for it discontinued further proceedings and took no notice of the continued breaches of this part of the Crimes Act. In doing so it practically admitted the inexpediency, if not the injustice, of its previous action and of the imprisonment of the editors of papers in the cases referred to. From that time, for more than twelve months, no further action was taken by the Government in this

direction, and the Act became a dead letter in this respect. After this long interval, however, action was again taken by the Government under this part of the Act with a vindictive caprice unexampled even under the Crimes Act. In December 1888, suddenly, and without notice or previous warning of their intention, the Government again commenced proceedings against Mr. E. Harrington, M.P. They prosecuted him for two offences—the one for a speech, in which it was alleged that he had incited the people of Kerry to adopt the Plan of Campaign, and the other for reporting in his own paper his own speech, on which the first count of the indictment was framed, at a meeting of the League in a suppressed district.

There was no evidence on which to convict Mr. Harrington on the first count, and the resident magistrates found him not guilty ; but they found him guilty on the second count, of publishing the report of his speech, and they sentenced him to six months' imprisonment with hard labour, the severest punishment they could award—a most vindictive and cruel sentence. On the advice of Mr. Healy, his counsel, an application was made to the Court of Exchequer to set aside this finding on a technical point, and this appears to have ousted his appeal to the County Court judge. The application to the Exchequer Court failed. Meanwhile, Mr. E. Harrington was sent to prison, where he was subjected to all the indignities of a common criminal. His hair was forcibly cut short,¹ he was associated with other criminals, and he was put to hard labour. His case created the greatest indignation throughout England, and even roused a protest from Mr. Chamberlain, who had been unmoved by the treatment, as common criminals, of so many others of those with whom he had been quite willing at one time to enter into a political alliance.

¹ This appears to have been the first occasion on which this form of indignity was inflicted on an Irish member.

In deference to these remonstrances, the Government, after the expiration of three months of the sentence on Mr. E. Harrington, directed that he should no longer be subjected to 'hard labour.' This mitigation came too late to be of any value, for already, by order of the judges who were inquiring into the charges and allegations of the 'Times' against the Irish members, Mr. Harrington had been afforded the opportunity of preparing his defence, and for this purpose he was relieved of hard labour, and was supplied with copies of the proceedings of the Court, and with materials for writing. The practical result to Mr. Harrington of the remission of hard labour was that his diet was reduced ; for the diet of a prisoner sentenced to hard labour is distinctly better than that of an ordinary prisoner.

Another class of prosecutions against the Irish members and others arose out of their speeches at public meetings—sometimes for merely speaking at meetings of suppressed branches of the League, on other occasions for defending the right of combination, advising tenants to protect themselves against arrears of unjust rent by the Plan of Campaign, or recommending them when already in combination not to give way singly to their landlords, but to stand by one another, and to insist, as a condition of settlement, that those who had been already evicted should be reinstated in their holdings, and for recommending the social ostracism of those who should become tenants of farms, from which the previous occupiers had been unjustly evicted.

If it were intended to ask a full judgment upon the conduct of these persons in giving such advice, it would be necessary to enter into a full history of past agrarian movements in Ireland, to point out how the combinations had their origin in the failure of the Government, in 1886, to concede the demands of the vast majority of Irish members for legislation to meet the agrarian difficulty caused by the fall of prices, and again, in 1887, by their failure to deal with

the question of arrears which had accumulated in the interval, and to show how combinations and the boycotting of evicted farms were substitutes for individual acts of terrible revenge against evictors and land-grabbers—the traditional agrarian crimes of Ireland.

It is not, however, intended to raise the question whether the action of the Irish members was justifiable or not ; what is contended is that, whether they infringed the law or not, their action was in the main political, under the belief that they were doing their duty to the tenantry of Ireland, and that, such being the case, they should not have been treated as ordinary criminals and subjected to the indignities of the gaol, but should have been dealt with as political prisoners.

The first case of this kind was that of Mr. W. O'Brien, M.P. He was prosecuted in September, 1887, for having a few weeks previously incited persons to obstruct the Sheriff in the discharge of his duty. The facts of the case are so well known that it is not necessary to do more than slightly allude to them. The tenants of the Countess of Kingston were leaseholders, and had not, therefore, the benefit of the Land Act of 1881. Their rents were enormously high ; they asked for an abatement of 30 per cent. This was refused. Proceedings were then taken to evict them. At the very moment when Mr. O'Brien spoke, a Bill was before Parliament, and shortly to become law, by which these leaseholders would be enabled to go into Court, and by which at that time some remedy was hoped for the arrears of excessive rent.

Mr. O'Brien and Mr. Mandeville addressed a meeting of these tenants, and the former advised them to 'defend their homes by every honest means in their power.' The tenants, after this meeting, adopted the Plan of Campaign. The owner was in consequence deterred from proceeding to extremities. No evictions were attempted, and consequently no resistance in fact took place. The Land Bill passed into

law, and these tenants on the average got a larger reduction of rent than they had originally asked for, though they were not relieved from arrears of their excessive rents.

For their speeches at this meeting, Mr. W. O'Brien and Mr. Mandeville were prosecuted by the same Government which claimed credit for passing this Act. At the trial of Mr. O'Brien it appeared that two reports of his speech had been forwarded to Captain Plunkett by the police. These had not been made at the time, but were made the next morning from the recollection of the officers who had been present. They differed in one essential point. That of Constable Foley omitted the word 'honest' from the speech of Mr. O'Brien. The other, in which this word appeared, giving a different colour to the speech, was not produced by the Crown. It was, however, extracted by examination, and it appeared that the report was marked in pencil 'not to be used.' It appeared also that this report, equally with the other, had been sent up to the law advisers of the Government. In spite of this Mr. O'Brien was convicted and sentenced to three months' imprisonment, as a common criminal, by Messrs. Eaton and Stokes; and this sentence was confirmed on appeal. It may be safely affirmed that no jury in the United Kingdom could have been found which would have convicted Mr. O'Brien on this charge. Vast numbers of persons in England applauded his action. It had the effect of saving the Kingston tenants, and it did not lead to actual resistance, as the evictions were not proceeded with. What an outrage, then, on public opinion in Ireland to send this popular leader to prison as a common criminal!

Mr. O'Brien, as is well known, resisted this treatment. His clothes were forcibly taken from him by the prison warders. He refused to put on the prison dress. The struggle which he went through had such an effect on his health and physique, that the prison officials were frightened; and finally Mr. O'Brien was placed under hospital treat-

ment, where he was relieved from most, if not all, of the indignities and hardships of the prison.

Less fortunate was his companion, Mr. Mandeville. This gentleman, when sent to prison, was in perfect health, and was a man of unusually powerful physique. He was deprived of his clothes by force ; he was directed to take exercise with common criminals. On refusal, he was deprived of all exercise, and was, three times in the course of his imprisonment, put into a punishment cell, and fed on bread and water. The last occasion was only two days before he came out of gaol. Whether this treatment was the cause of such a lowering of his general health as to contribute to his death about three months after he came out of gaol has been doubted. It is so affirmed by his friends ; it is stoutly denied by the Government officials ; but, whatever be the truth on this point, no one can doubt that the treatment of this gentleman was brutal and cruel.

CHAPTER III

THE next two cases against members under the Crimes Act are illustrations of another method of procedure devised for the purpose of depriving prisoners of the right of appeal. Mr. Sheehy, on December 16, was prosecuted at Frenchpark, Roscommon, before Messrs. Dillon and Henn, for a speech in which it was alleged he incited tenants to resist eviction. In a later speech at Clonmel, when a summons had already been issued against him for his Frenchpark speech, he used these words : 'Although I am summoned to appear at Frenchpark for having advised the tenants to resist eviction, I have come here to tell you that if I did not say these words in Frenchpark I say them now.' In spite of protest, the magistrates admitted evidence of this subsequent speech in order to give colour to the words at Frenchpark, and they sentenced him to three months' imprisonment. He appealed. Immediately after giving bail to prosecute the appeal, he was re-arrested on a charge of making the second speech, and was carried off to Clonmel, where he was tried and sentenced to a month's imprisonment as a common criminal, for what was practically the same offence as that for which he had been previously tried and convicted. Meanwhile the appeal came off before Mr. O'Connor Morris, who affirmed the conviction, but directed that he should be treated as a first-class misdemeanant. Mr. Sheehy, at the time of the appeal, was undergoing his month's imprisonment as a common criminal. He has published an account of his treatment during

this first imprisonment. 'I was ordered,' he says, 'on coming into gaol to exchange my clothes for the prison garb. I refused, and was in consequence taken to an empty cell, where, in the presence of the Governor, I was knocked down and stripped of my clothes by five warders, and left naked in the cell for over two hours, with a window open, which faced the north and was not within reach. Then they came back again, and on my refusal to put on the prison clothes, they put them on me by force and conveyed me to another cell, where I at once flung off all except the shirt and drawers. During the fourteen days I was in Clonmel Gaol, the shirt and drawers were my only clothes by day. The bed-clothes were every morning removed from my cell, and only returned to me at bed hour. In addition I got punishment diet—bread and water—for refusing to clean out my cell and empty the slops. After the first seven days the prison dress was put on me by force every day at midday, though I flung them off again.

'During the week after my appeal at Roscommon, when Mr. O'Connor Morris ordered me to be treated as a first-class misdemeanant, I spent the remainder of my first month's term and the beginning of my three months' term in Tullamore Gaol ; and as a prisoner undergoing the latter, I should have been treated as a first-class misdemeanant, but was not, except in a motley kind of way. I had my own underclothing and boots and the prison trousers and jacket, and instead of the cell stool had a kitchen chair. But I had the plank bed and the prison fare, and had no exercise, as I refused to associate with the ordinary prisoners. I therefore spent three out of the four weeks of my first month's imprisonment in solitary confinement. The remainder of my three months, as a first-class misdemeanant, went smoothly by. They no longer could do me hurt, and so gave up torture. I never expected myself that I would have the benefit of being treated as a first-class misde-

meanant. In resisting the treatment and degradation of an ordinary criminal prisoner, my purpose was to attract the attention of liberty-loving Englishmen to the cruelties and wrongs inflicted by British rulers on political offenders, with the hope that others afterwards, the humble as well as the prominent, would be treated in a manner fitted to their offences as political transgressors.'¹

As in the case of Mr. E. Harrington, Mr. Sheehy was summoned to give evidence in another case, that of Mr. Wilfrid Blunt, which was tried at Portumna, the chief town of the district which he represented in Parliament. The trial lasted five days, and on each day Mr. Sheehy was exhibited before his own constituents in the prison dress. On each morning, before going into Court, he protested against this, and refused to put on the prison clothes ; and on each occasion he was forcibly dressed in them by the prison warders. What is also to be noted in Mr. Sheehy's case is, that for practically one offence he was twice convicted and imprisoned, in the one for three months as a first-class misdemeanant, and in the other case for a month as a common criminal.

It cannot be doubted that Mr. O'Connor Morris would have given the same directions in respect of the second prosecution—namely, that Mr. Sheehy should be treated as a first-class misdemeanant ; but the action of the resident magistrates in awarding a month only, and in refusing to extend the period so as to admit of appeal, insured his being sent to prison at once, and being treated as a common criminal. The Government must be taken to have approved their action. The least that could be expected was that it would have directed that, pending the appeal, Mr. Sheehy should be treated as a first-class misdemeanant.

Almost identical was the case of Mr. Cox, M.P. He was

¹ *Prison Papers*. By David Sheehy, M.P. Weldrick Brothers, Dublin.

prosecuted on January 28 for taking part in an unlawful meeting. The only evidence of its being an unlawful meeting was his own speech, in which he defended the National League. The following is the main portion of the speech in question :—

‘I would implore the young men of Clare—and I wish my voice could reach the ears and hearts of every young man to-night, and this Lisdoonvarna case may point a moral if it cannot adorn a sad tale for them—let them shun outrages, and avoid the tempter to evil deeds as they would shun the Devil himself, and if from no holier and higher motive, at least for the selfish motive of their own safety. There are foolish people in the country who think revenge should be wreaked for every petty act of local tyranny. I do not think the common-sense of the country will accept their opinion against those of our great leader, Mr. Parnell, or the greatest statesmen of modern times, Mr. Gladstone. Whenever and wherever you meet with such men, avoid and shun them ; for, believe me, there is no good purpose . . . We have now the great Liberal party of England at our back, with their great leader, Mr. Gladstone . . . With such allies nothing can stop or stay our march to liberty save and except the committing of outrage, which must inevitably drive our allies from our side, and bring joy, hope, and satisfaction to the hearts of the miserable gang of Coercionists—the Cullinane-Balfours now in office . . . Follow the open and constitutional agitation which has always brought us to the goal of our long-lost right. Adhere to the teachings and doctrines of the National League. But I forget, my friends. Balfour says the League has been proclaimed in Clare. I ask you, is it? (Loud shouts of ‘No!’) I wish Balfour were here, to listen to that thundering shout ; he would know the value you place on his proclamations !’

Most people would consider this a strong denunciation of crime, which, being made by the member for the district, and

after the recent horrible crime near Lisdoonvarna, would be of the greatest value in preventing such outrages in the future. The view that the resident magistrates (Mr. Roche and Mr. Hodder) took of it was that it constituted the meeting an illegal one, and they convicted Mr. Cox and sentenced him to four months' imprisonment as a common criminal. On giving bail for an appeal, Mr. Cox was re-arrested, and was tried four days later by the same magistrates on a precisely similar charge, and with no stronger evidence, and they then sentenced him to a month's imprisonment, as a common criminal, the obvious intent being to imprison him pending his appeal. On the appeal, Judge Hickson reduced the sentence in the first of these cases to one month's imprisonment as a first-class misdemeanant. Mr. Cox, however, had already spent a month in gaol as a common criminal for practically the same offence.

Mr. P. O'Brien, M.P., was prosecuted at Coolderry, in Roscommon, on January 27, before Resident Magistrates Beckett and Townsend, for inciting tenants not to pay rent, and was convicted and sentenced to four months' imprisonment as a common criminal. Immediately on giving bail for an appeal he was rearrested and conveyed to Wexford, where he was tried, on February 4, by Messrs. Considine and Bodkin for a similar offence, and was sentenced to three months' imprisonment, as a common criminal. Mr. O'Connor Morris confirmed the first sentence, but directed him to be treated as a first-class misdemeanant, and the same course was taken by Judge De Moleyns in the second case. For almost precisely a similar offence, Mr. Blane, M.P. was tried in Donegal, and was sentenced to four months' imprisonment for a speech made at a meeting, where Father McFadden made the speech, for which he also was prosecuted and sentenced to three months' imprisonment. On appeal, County Court Judge Webb increased the sentence of Father McFadden to six months, but directed that he should be

treated as a first-class misdemeanant, while he increased the sentence of Mr. Blane to six months, but without the mitigating direction. Mr. Blane spent six months in gaol as a common criminal.

The late Mr. Pyne, M.P., was charged on February 15, before Messrs. Considine and Bodkin, with inciting persons to obstruct the Sheriff's officer, and was sentenced to three months' imprisonment; and on the 29th of the same month, before Messrs. Meldon and Fitzgerald, at Clonmel, for inciting to boycott, for which he was sentenced to six weeks' imprisonment. The first of these convictions was quashed for illegality, but the second was confirmed, and on February 25 Mr. Pyne served his six weeks in gaol as a common criminal.

Mr. Flynn, M.P., was charged before Messrs. Turner and Segrave with inciting tenants to combine against payment of rents. The charge was founded on a speech of Mr. Flynn to his own constituents in which he made use of these expressions, which were relied upon by the Crown :—

‘There is something else that the Irish people should rely upon; they are gradually driven back to these lessons of combination which they have learnt, and which, if they are sensible men, they ought to know by heart. . . . A certain scheme was placed before the country about fifteen months ago. With that scheme the names of W. O'Brien and John Dillon are honourably connected, and under the shelter of that scheme two bodies of tenantry in Duhallow have found themselves obliged to take refuge. Under the stress of last year, they were obliged to take refuge behind the combination known as the Plan of Campaign, and the banner of the Plan of Campaign floats proudly over the heads of the people of Knockalree and the district.’ . . . ‘I beg of you to remember these words of a great English orator, and stick firm to your just and lawful combination, and do not be driven from that either by the intimidation of the Government of the Castle or by the open violence of bludgeonmen.’ The

Crown prosecutor bore testimony to the fact that Mr. Flynn had acquired a character for moderation, but he was sentenced to twenty-one days' imprisonment, as a common criminal.

Another conviction, even more extraordinary than those already alluded to, was that of Mr. Lane, M.P., on January 18, 1888. He has told his story himself as follows :—

‘When Mr. Hooper was imprisoned I volunteered to edit the “Cork Herald” for him, though not a pressman. Immediately afterwards a grave scandal was exposed and publicly denounced here by one of our clergymen—viz. the corruption of a number of young girls by a Government official. In the editorial columns of the “Cork Herald” I called for the prosecution of this man. Captain Plunkett did not move. Information disclosing the offence was put in his hands by the Mayor and the clergyman who exposed the matter. Still he did nothing. I kept writing about the case. The magistrates of all creeds and classes met at the summons of the Mayor, and by public resolution called on Captain Plunkett to prosecute this official. He still declined to stir. They met again with the same result. I kept on the comments on Captain Plunkett’s action, not in the friendliest strain, I admit. My colleagues were being imprisoned for no crime, and here was this man drawing his salary undealt with. The end soon came. Another official (a personal friend of mine) called on me to ask me to let the matter drop, as this man had a wife and family. I said if it were my father I would not cloak such a matter. The following evening, on my way home about 8.30 P.M., I was arrested in the street. I was marched off through the streets to the Bridewell as if I were a thief. My position in Cork was one which would have guaranteed my answering a summons. The charge against me was for “inciting persons to resist the Sheriff and his bailiffs” in a speech delivered six weeks previously. Everyone in the country believed it was to protect this official

that I was removed from the scene. The London, Dublin, and Cork Press all stated it at the time. The trial came on ten days later. The Crown counsel, Mr. Ronan, in his opening, said if the speech had been made in a peaceable district it would be perfectly harmless. But, he said, the district was disturbed, and that at recent evictions in it the Sheriffs were attacked with hot irons, boiling tar, &c. A Government reporter proved my speech ; from the beginning to the end there was not one word of reference to the Sheriff or his bailiffs, nor of advice to resist them—for the best of reasons, that there were no evictions coming off on the estate. The landlord (Dr. Hayes, of Tralee), whose tenants Mr. Ronan charged me with inciting, was subpoenaed by the Crown, but they did not call him. I called him as a witness myself, and he swore that he did not intend to evict any of his tenants, that he had no judgments marked against them, that he was not injured in any way by my speech, and, finally, that he would leave the settlement of the difference between himself and his tenants in my hands with every confidence, and that, as a matter of fact, he had offered to do so after reading the speech complained of by the Crown. He swore that Captain Plunkett sent a police officer to ask him to prosecute me, and that he declined. They then put Inspector Jones (of Fermoy), who, as police officer of the district, acted as complainant, in the box. In reply to my questions he said he had been twenty months in charge of the district, and that it was perfectly quiet and peaceable, and could not be more so. He said there were no evictions there during the time, or, to his knowledge, before it ; that it was simply impossible that any could occur without his knowledge, and that Mr. Ronan's statement about the use of "hot irons and tar" was absolutely false. He further admitted that, although he was plaintiff, he did not know by whom the information was laid. In fact, he swore that he knew absolutely nothing whatever about the case, or how or by

whom it was got up, though he was the police officer of the district, and in the ordinary course should have been the prime mover in the case. There was not one tittle of evidence produced during the whole trial to support the statements of the Crown counsel. There was nothing in support of the charge but Mr. Ronan's speech, yet the magistrates (Messrs. Irwin and Warburton) convicted me. It seemed from their statement, my crime was that I was a man of education and holding a good position. They were almost apologetic for having to sentence me, and refused to hear the second charge against me. The work they had to do was done. I was sent to prison. I was there only one month. I was a strong, hearty man on going in—never an hour sick in my life—and I came out unable to crawl across the road from starvation and confinement. I was kept in the cell for twenty-three consecutive days without air or exercise, for refusing to take it in company with common criminals; and for this also I was kept nine days on bread and water.

‘While I was in prison a bogus prosecution was brought by the Crown against the incriminated official, and a police reporter proved the last date upon which an offence was sworn to, by that time outside of the three months’ limitation of the Criminal Law Amendment Act, and the accused went back to his salary and enjoys it still. Some of the strongest Tories in Cork condemned my trial, and Tory magistrates visited me in prison as a protest. It is not because I was the victim I say it, but my case was the worst which has occurred under this administration.’

The depositions taken before the magistrates confirm Mr. Lane's statement as to what occurred at the trial. It is absolutely impossible to conceive that, if there had been an appeal to a County Court judge, the conviction would have been sustained. The magistrates refused to extend the sentence beyond a month so as to enable an appeal to be made;

and they sent Mr. Lane to prison as a common criminal, with the result described by him.

On March 6 of the same year Mr. Gilhooly was sentenced to two months' imprisonment with hard labour by Messrs. Gardener and Warburton for a very moderate speech to his own constituents. On appeal the sentence was reduced to a fortnight's imprisonment without hard labour by the County Court judge, Mr. Ferguson.

Among the worst cases was the imprisonment of Mr. Condon, M.P. He was charged on several counts for a speech which he made at a meeting held at Mitchelstown for the purpose of protesting against what was known as the Leahy tax—that is, the levy made on the inhabitants of the district for compensation to the constable of that name, who received injuries on the notorious occasion of the shooting of three peasants by the police at the same place, in respect of whom there has never been a judicial inquiry, and where no proceedings whatever have been taken. There was nothing in Mr. Condon's speech to which exception could be taken by the Crown prosecutor. He was compelled to put in evidence two speeches made at the same meeting by Mr. Healy, M.P., and another gentleman in order to give an illegal aspect to Mr. Condon's own language¹; yet, strange to say, neither Mr. Healy nor the other speaker was prosecuted. On the first charge, that of taking a part in an unlawful meeting, Mr. Irwin, in giving the decision of the Court, said 'that on the charge of taking part in an unlawful conspiracy they considered the tendency of the speeches made on the occasion was undoubtedly to promote and encourage the Plan of Campaign. There was no suggestion at all that the meeting was not outwardly a peaceable and orderly one; owing to the fact that Mr. Condon himself had not at that

¹ Mr. Condon has stated on oath before the Special Commission that he had already left the meeting when these other speeches were made, and that he did not hear them.

meeting made any allusion to the Plan of Campaign, therefore, they agreed in imposing on him the light sentence of fourteen days' imprisonment.' On the other charge of inciting persons to conspire against the Leahy tax, they also relied on Mr. Healy's and other speeches; there was nothing in Mr. Condon's speech to which exception could be taken. The magistrates found him guilty and sentenced him to a month's imprisonment, and refused to extend it in order to give an appeal. Mr. Condon, therefore, spent six weeks in prison as a common criminal. This case shows that, in the view of the Irish Government, a conspiracy may be proved by speeches of other persons than the accused at a meeting called for other purposes, and where in the speech of the accused there is nothing whatever to which exception can be taken. It is difficult to believe that in this case any County Court judge could have sustained the decision.

The next case on the list is that of Mr. John Dillon, M.P. It is so well known that it is unnecessary to deal with it at any length. He was prosecuted for a speech made at Tullyallen, in the county of Louth, on April 30, 1888, in which he advised the tenants of Lord Massereene who had adopted the Plan of Campaign to stand by one another, and not to give way singly to their landlords and basely abandon those who had suffered eviction for the sake of their fellow-tenants.¹ At the time when Mr. Dillon made this speech the district was not proclaimed, and he could only have been tried by a jury for this speech; but under the Crimes Act the *venue* could have been changed to any part of Ireland, and the jury would have been a special one. The Government, however, was so certain that no jury, even a

¹ I have dealt at length with this case, have told the story of the unjust and unwise proceedings of Lord Massereene, which led to this unfortunate dispute, and have explained the position of things at the time when Mr. Dillon made his speech, in *Incidents of Coercion*, 3rd edition, p. 110,

special jury, could have been empanelled in any part of Ireland, that would have convicted. Mr. Dillon for such a speech, that they adopted the device of proclaiming the district after the speech, for the express and only purpose of withdrawing the case from a jury and trying it before two resident magistrates and a County Court judge. Mr. Dillon was sentenced to six months' imprisonment as a common criminal, and the sentence was confirmed by County Court Judge Kisbey, who, before his recent appointment to the Bench, had been one of the most bitter partisans of the Orange party in the North of Ireland.

Mr. Dillon, on account of his extremely delicate health, was put into hospital immediately on his incarceration. There cannot be a doubt that the treatment of an ordinary criminal would soon have killed him. Confinement even in the hospital affected his health, and the Government was compelled to release him some weeks before the term of his imprisonment had come to an end. This in no way detracts from the severity of the sentence, and others less conspicuous than Mr. Dillon have for the same offence been treated as common criminals. Before going into gaol this so-called criminal received an address signed by 150 English and Scotch members sympathising with him, and expressing resentment for his unmerited imprisonment.

Mr. O'Kelly, M.P., was prosecuted in August, 1888, in Roscommon, for a speech which he had made to his own constituents, in which he advised the people to shun what have been called the Star Chamber inquiries under the Crimes Act—that is, the magisterial inquiries held in private, at which, under the threat of imprisonment, the authorities have endeavoured to elicit details as to the Plan of Campaign from those who are members of the combination. Mr. O'Kelly was sentenced to four months as a common criminal ; but on appeal Mr. O'Connor Morris reduced the sentence to two months' imprisonment, and directed that he

should be treated as a first-class misdemeanant. Mr. O'Kelly, therefore, has been one of the fortunate few among the Irish members who have been convicted under the Crimes Act, and have yet escaped being treated as common criminals.

The next two cases were those of the Messrs. Redmond, who found their way separately to gaol about the same time for different offences. Mr. John Redmond was prosecuted at Ferns before Messrs. McLeod and Bodkin for a speech made on July 22, 1888, in which it was alleged that he had used intimidation to prevent a Captain Walker from doing what he had a legal right to do. It appears that a tenant of the name of Clinch, a leaseholder, had got into arrears, and was formally evicted in 1885, but was readmitted as a caretaker. In June 1888 the magistrates issued a warrant to evict Clinch. A meeting was held in the neighbourhood of the prison to protest against this eviction. Mr. Redmond, speaking among his own constituents, said at this meeting:

‘We are here holding a meeting at the door of an evicted tenant to protest against his eviction, and to make it perfectly clear that so long as Clinch is kept out of the farm, so long no farmer in the district will take hand or part in working that land.

‘You all know that I have always during my political career endeavoured to act and speak as a moderate man. I have always endeavoured, before advocating any particular cause, to find out that it was a good cause, and in no instance have I backed up a tenant merely because he was a tenant, if I thought that the tenant was guilty of an act of injustice, and the landlord had not treated him unfairly. I would not be here to-day if it were not that I know that this man Clinch has been, under the force of law, robbed of his property just as clearly and as certainly as if Captain Walker had met him on the roadside and taken money out of his pocket. What is the history of the farm? The Clinches have been in possession for 100 years. The house was

built by them, and all the draining and reclamation was effected by them. The tenant fell into arrears and owes three years' rent. Being a leaseholder, he was at the time of his eviction debarred from going into the Land Court. He is willing, if the landlord will reinstate him, to go into the Land Court and have his rent fixed on condition that arrears of rent should be calculated on the basis of the new rent. If Captain Walker is determined on fighting this man, he will soon find that in fighting him he is fighting the whole people of the country. . . . He will find that not only has he got no tenant for the land—God forbid that any man should be wicked enough or mad enough to lay hands on the land for which Clinch has been evicted!—but he will soon find that the injustice done to this man will confront him wherever he goes. Until the injustice is remedied, he will find nothing in the country, either in the hunting-field or elsewhere, except the hostility of men who resent injustice.

'A few weeks ago I received in London an intimation that a certain farm in the neighbourhood of Ferns had been grabbed, and it seems to me a very hard thing to understand or explain, but I at once said that I would go over myself and hold a meeting. Well, before I had time to come over, I received a letter telling me that the land-grabber had repented, and, believe me, after a possession of four or five days he found his position such an uncomfortable one that he gave it up suddenly. I mention this because I think it is a good example of the spirit of the district. Mr. Parnell was the first man who taught the Irish people the evil of land-grabbing, and showed them how by boycotting evicted farms they would paralyse the aims of the landlord.'

Mr. Redmond, on his trial, justified his language and said: 'I stand by every word I said. It is for the magistrates to say whether I have violated the law. I am accused of intimidating Captain Walker. I utterly repudiate and deny that. I have ever denounced violence and crime of every

kind, and have sought by the action of public opinion alone to stay the hand of the oppressor, and to protect the people in their homes.'

The magistrates convicted Mr. John Redmond, and sentenced him to five weeks' imprisonment as a common criminal. He said he went to gaol with pleasure and would not appeal.

Almost at the same time, on September 14, Mr. William Redmond, M.P., was prosecuted at Wexford before Messrs. McLeod and Bodkin for having incited tenants to resist the bailiff. Mr. Redmond was present at the eviction of a man named Somers at Coolroe. The eviction was a very harsh one, and the opinion of the district was very strongly roused against it. The resistance was of a most determined character. Somers's house was strongly fortified, and a series of earthworks were thrown up around it, which prevented the use of the battering-ram. The bailiffs and police were kept at bay for a whole day. Mr. Redmond was reported by the police to have called out, 'Bravo, boys! I am proud of you; give it to them.' He admitted that he had used the first part of these expressions; he denied that he had said, 'give it to them.' He was sentenced to three months' imprisonment as a common criminal. He said he would not appeal. 'I consider,' he said, 'that in what I did I was only doing my duty. I undoubtedly encouraged those men, because I thought they were right in defending their homes against unjust eviction, and I would cheer any man who defends his home against unjust eviction.' No serious injury was done to any of the police by this resistance.

Mr. W. Redmond and his brother were treated to all the indignities and hardships of the gaol. Their clothes were taken from them by force. The former was put on bread and water on three days for refusing to take exercise with two soldiers imprisoned for burglary.

CHAPTER IV

AFTER the prosecution and imprisonment of the Messrs. Redmond there was a lull in the proceedings against the Irish members, and a long delay took place before further prosecutions were commenced against them. It will be seen that up to this time eighteen members had been proceeded against, seventeen of whom had been convicted and imprisoned. In all cases the resident magistrates had condemned them to be treated as common criminals. On appeal, of six County Court judges who dealt with them, three had in five cases directed that the members convicted should be treated as first-class misdemeanants, and three judges, in three other cases, had confirmed the sentences of imprisonment as common criminals. All but three of the seventeen members had, in respect of some of the sentences on them, been subjected in gaol to the treatment of common criminals. The weight of authority, however, was distinctly in favour of the treatment of such cases as first-class misdemeanants. It will be seen that between these cases and the renewal of the prosecutions at the commencement of 1889, the speeches of the Prime Minister and the Chief Secretary were made, justifying and defending the treatment of these members as common criminals.

The authorities at Dublin Castle took their holidays in the autumn, and it was not till they returned to work, in October and November, that they again took cognizance of the speeches which were being made. The determination

was then come to by the Government again to prosecute about a dozen of these representatives of the people. A further delay, however, took place in the proceedings by virtue of an arrangement made in the House of Commons, between the Government and the Irish party, that no prosecutions should be commenced against any members of Parliament until after the Irish Estimates had been disposed of in the autumn session, in order that these members might take their part in the discussions on the Irish votes. Was there ever a more strange understanding between a Government and a band of so-called criminals, who, as will be seen, the Chief Secretary considered to be guilty of shocking crimes? These men were to be permitted to fulfil their Parliamentary duties; their imprisonment was to be postponed for this purpose; having performed their duties, they were to be treated as felons for speeches made months previously. This suspension of proceedings against them alone was an admission that they were not criminals in the ordinary sense of the term, and that their action was as political as was the action against them on the part of the Government.

The autumn session did not come to an end till nearly Christmas. After a very brief interval Mr. Balfour went over to Ireland to perform the official work of the Castle, and to dispense hospitalities to Dublin society at the Chief Secretary's Lodge; and his first task on arriving there was to direct prosecutions against twelve of the Irish members, with whom he had been, for weeks previously, in constant antagonism across the floor of the House of Commons.

Many of these members, such as Mr. W. O'Brien, Mr. Cox, Mr. Sheehy, Mr. Finucane, and Mr. Condon, had already been subjected to imprisonment, and on coming out of gaol, undeterred by the punishment inflicted on them, had renewed their action, speaking in language rather

stronger and plainer than that for which they had already been prosecuted.

The language for which these members were now prosecuted was that of advising or justifying the social ostracism of persons who had taken, or who should thereafter be disposed to take, farms from which tenants had been unjustly evicted. The Lord-Lieutenant had recently boasted in a speech at Belfast that the policy of the Government had been successful, and that large numbers of these farms had been recently taken by other tenants. It was to protest against such statements, and to encourage the people in their resistance in the agrarian disputes, still pending in various parts of the country, that the Irish members had pointed their speeches.

Mr. W. O'Brien, M.P., among the first, was prosecuted at Carrick-on-Suir, in Tipperary, for a speech in which he had denounced land-grabbing. It appears that a landlord in that neighbourhood with great harshness had recently evicted eighteen tenants. This person had originally, in 1886 and 1887, refused to make any abatement of rent, and his tenants had formed a combination, and had adopted the Plan of Campaign. Later, the landlord was prepared to yield as regards the amount of abatement, but insisted upon the tenants paying the costs of legal proceedings, amounting to 12*l.* in each case. The tenants refused to pay these costs; and sooner than yield on this point the landlord evicted them at a cost of five to six hundred pounds, and was now farming the land through his agent, a Mr. Hanley, of Thurles. In his speech at a meeting in the neighbourhood Mr. O'Brien said :

‘If all our labours for the last ten years have not been in vain, you ought to know a land-grabber when you meet him, and you ought to know how to deal with him without any instructions from me. . . . If you want a lesson how to deal with land-grabbers go to the English trades’ unions

and ask them how they deal with colts and sneaks. . . . If you want to know how to deal with land-grabbers ask the Primrose Dames : ask them how they deal with the Radical shopkeepers who are guilty of a tenderness for Mr. Gladstone. . . . The Primrose Dames don't go about shouting "Boycott them !" in the hearing of the police, but they do it a thousand times more effectively. When they meet them in the street they give them the cut direct ; they give them a look which, as we say in Ireland, is as bad as a process. They leave them severely alone. They leave their shops deserted, and they leave their lives in misery ; and, instead of sending these high and titled Primrose Dames to the plank bed, Mr. Balfour makes pretty speeches to them, and he receives flowers and bouquets. Well, I suppose we can also tread the primrose path of boycotting. I also hold that the Irish land-grabbers deserve infinitely worse than the Radical shopkeepers to suffer under the lash of public opinion. I say here to-day that I defy any law that was ever framed to save them from the righteous wrath and reprobation of the people. The Radical shopkeeper in England is boycotted and is persecuted because he gives a vote against the Tories ; but the crime of the Irish land-grabber against his country, against society, is something of a different character. . . . I hold that it is no crime before God and man to put such a man in a moral quarantine, to cure him of his disease and to bring him to repentance. . . . We have the authority of Lord Salisbury for it. In his famous speech at Newport he said there was a sort of boycotting which no law could deal with, and that is precisely the sort of boycotting I advocate here to-day. . . .

'It is because I abhor and condemn crime in every shape that I hope every man and every woman in Tipperary will follow the example of the Primrose Dames, and never rest till they show that the trade of land-grabbing is not a pleasant and not a profitable trade.'

Mr. Hanley, the agent of the property, gave evidence that he was the person aimed at in this speech. On the strength of this, the magistrate convicted Mr. O'Brien, and sentenced him to four months' imprisonment as a common criminal. The speech had been delivered nearly four months before the trial, and there was no evidence of any crime whatever having been committed in the interval in this district.

Mr. O'Brien, as is well known, on being sent to prison in Clonmel, again resisted being deprived of his clothes; he was consequently forcibly laid hold of by the prison warders, and, in spite of his violent opposition, was stripped of his clothes and was left almost naked in his cell for many hours. He had fainted under the application of this force.

The Mayor of Clonmel, Mr. Condon, M.P., who had the right to visit the prisoner, found Mr. O'Brien in a very weak state in bed in his prison cell. The doctor had directed that a mattress should be supplied him in lieu of the plank bed. The coarse brown bread of the prison was untasted by his side. Mr. Condon applied to the Prison Board that Mr. O'Brien should be treated in the same manner as he had been in his previous imprisonment in Tullamore, and that he should be placed in the infirmary. The Board refused this, on the ground that the rule expired with the termination of his imprisonment on that occasion.

The treatment of Mr. O'Brien aroused universal indignation throughout England and Scotland. The Chief Secretary found himself compelled to give way. Directions were given that Mr. O'Brien should be transferred to the infirmary. This was done, and he was there relieved from all the harsh indignities of the prison.

In the meantime, however, others of the Irish members had been subjected to the same violent treatment for similar offences. On February 8, in Kildare, Mr. Kilbride, M.P., Mr. Carew, M.P., and Mr. Robertson, a gentleman of seventy

years of age, who had been employed by the Land Commission as a valuer, were charged with 'conspiring with persons unknown to induce other persons unknown' not to deal with or work for persons occupying evicted farms, and with intimidating Lord Drogheda for evicting a tenant named O'Beirne.

Mr. Carew's speech contained the following passage, which was the subject of the charge :

'We are met here to-day to direct attention to the case of O'Beirne, who has been robbed and plundered of his holding, and who has been evicted after having raised the value of his farm by 600*l*. We are here to-day to say that so long as Lord Drogheda leaves O'Beirne out of his holding, no member of the community will have hand in taking the farm. If any stranger is imported you should use the strong weapon by which not one single drop of blood will be shed—the weapon of boycotting. So long as Lord Drogheda keeps O'Beirne out, I want you to say that you will keep him from enjoying himself. I do not want you to injure a hair of his head ; but when I see an open daylight robbery committed on a man, I think you should boycott Lord Drogheda.' Mr. Kilbride and Mr. Robertson spoke in somewhat the same sense.

For these speeches Mr. Kilbride was arrested in Northamptonshire and Mr. Carew in Perthshire ; they were taken over to Ireland and were convicted and sentenced to three and four months' imprisonment. Mr. Robertson, in spite of his age, was sentenced to two months' imprisonment. Mr. Carew declined to appeal, alleging as a reason that he was practically deprived of his right of appeal, as in a recent case the County Court judge—Mr. Darley—to whom the appeal would lie, had said that 'he made a general rule for himself in all the Crimes appeals, that he would never interfere with the exercise of the magistrates' discretion unless he was satisfied they had made a mistake in law.' Mr. Carew,

therefore, went to prison at once as a common criminal. His clothes were forcibly taken from him. His hair was cut short. He was treated to all the other hardships and indignities of a felon. His health gave way under this treatment, and the authorities were finally compelled to release him some weeks before the term of his imprisonment was completed.

On February 1, 1889, Mr. John O'Connor, Mr. Condon, M.P., Dr. Tanner, M.P., and Mr. Manning, were prosecuted before Messrs. Considine and Bodkin in respect of speeches made on October 7 of the previous year, 'for a conspiracy to compel unknown persons, who then were or might thereafter become desirous to lease, use, and cultivate land from which tenants had been evicted.'

Mr. O'Connor's speech contained the following passage:

'You have in your midst Mr. Condon, M.P., and if he deserved to be imprisoned two months ago he deserves it much more to-day, for he and I have been up and down the country, and he has done and said things which ought to put him in gaol twenty times over if his last imprisonment was a just one. . . . What do I find here? That it is the snug and comfortable quarters of land-grabbers and emergency men. Tipperary has become the head-quarters of the evicting hordes of the surrounding country. . . . Is there in your midst any enemy to be punished or banished? If there is, and you fail to do your duty, you are not worthy to be called by the name of Irishmen. Mark the enemy and shun him. The word used to be in the past—Agitate, agitate, agitate. The word to-day is—Boycott, boycott, boycott. My friends, if you do this and take my advice, you may have to go to gaol. . . .'

Mr. Condon, M.P., said: 'The first thing you should do is, you should show you are prepared to bear out in deeds the advice which has been given to you by Mr. John O'Connor. . . . If the crime for which some of us spent some

time in her Majesty's hotels were a crime, we will repeat it over and over again if necessary in defence of our people, and we ask you to follow where we lead. Have an eye to the grabber. Don't neglect the emergency men.'

Mr. Manning said : 'John O'Connor has preached the gospel of modern Irish politics when he said, "Boycott, boycott, boycott." Use it, cling to it, stick to it, use it without mercy. Stand face to face with the practice of the Plan of Campaign.'

Mr. O'Connor and Mr. Condon were convicted and sentenced to four months' imprisonment as common criminals for this meeting. They appealed, and the sentences were confirmed.

Dr. Tanner, M.P., was subsequently tried and convicted for conspiracy in respect of a speech made at the same meeting, of the same nature as those already quoted, and sentenced to three months' imprisonment as a common criminal.

On January 28, 1888, Mr. Sheehy, M.P., Mr. Finucane, M.P., Mr. McInerney, and the Mayor of Limerick were prosecuted at Castleconnell, in Limerick, for speeches made in October of the previous year. Mr. Sheehy had been served with a summons in the precincts of the House of Commons, a proceeding which a Committee of the House reported to be an infringement of the privileges of Parliament. Later he was served with a summons at Dublin, but he did not obey it. He was subsequently arrested at Glasgow, where he was engaged in supporting the candidature of Mr. Wilson in the contest for the Govan division of Glasgow. Mr. Sheehy, at the meeting at Castleconnell on October 28, said : 'My friend the Mayor of Limerick has referred to a speech made by a jockey named Londonderry, in which he stated 160 evicted tenants' farms had recently been taken in Ireland. That shows us the hopes of the Government are that evicted farms shall be grabbed. It shows us that the hopes

of the Government lie in this, that if the evicted farms—and I believe the Tories are right in this—which are everywhere in Ireland lying desolate were let, it would be all up with the national cause in Ireland. The Tory Government is doing its best by the manner in which they are applying Coercion, by the manner in which they are backing up evicting landlords, emergency men and grabbers ; they are doing their best to put Ireland once again under the feet of a few landlords. It is our duty, it is our purpose, it is our determination that so long as we have the national question to fight out a land-grabber shall have no place in our midst. . . . I say here to-day that the land-grabber, here, there, and everywhere else throughout Ireland, may keep the land as long as he wishes ; and let him keep it and lose his money on it ; let him keep it and pay rent for a thing that brings him no profit. But the people that I am now speaking to fairly and honestly represent the unanimous opinion of this part of the country in declaring that you have no love or liking, but that you have the most utter contempt, for the land-grabber. If the statement I read to-day means anything, it means that the people won't submit. What is your opinion about the grabber ? Your opinion is this. You will have no consideration for him, but you will have no parley with him ; and if he wants to give up the place you will try to forget his foul act, and until he does you will have nothing to say to him. The one fact or the one idea that you have to convey home with you is, that so long as the grabbers hold possession of these places you are not to have anything to do with them.'

During the hearing of the case, which lasted some days, the magistrates refused to release Mr. Sheehy from imprisonment on bail, though they conceded this to Mr. McInerney. They sentenced him to six months' imprisonment as a common criminal, and on this they were compelled to take bail from him pending the hearing of the

appeal. On appeal, the sentence was reduced to five months' imprisonment as a common criminal.

For somewhat similar speeches at Tubberquin on November 4, 1888, Mr. Sheehy, M.P., Mr. Finucane, M.P., Father Merriman, and Mr. Moran were prosecuted for conspiracy. Their speeches denounced 'land-grabbing.' Mr. Sheehy said: 'I am very glad that in one corner of the county of Limerick the dishonourable stain of land-grabbing has ceased, and I hope in the near future there will not be one spot in my native county where the land-grabber holds sway. . . . There is nothing brings the blush of shame to a man's cheek so much as when he finds his friends cut him. . . . If his friends don't stand by him, if they don't help him, if they don't give him secret aid and assistance, he cannot keep the farm for forty-eight hours. . . . There is one way of converting any man—if you make it so palpable to him that in his conduct he is regarded by you, by any true Irishmen, as an enemy of Ireland, as one who ought to be shunned and despised, as one so utterly loathsome that no decent man would be seen to speak to him.' For this speech Mr. Sheehy was sentenced to six months' imprisonment as a common criminal, to run concurrently with the previous sentence, and Mr. Finucane, for a speech at the same meeting, to four months' imprisonment.

On February 1, Mr. Cox, M.P., and Mr. Jasper Tully, the editor of the 'Roscommon Herald,' were prosecuted at Strokestown before resident magistrates (Messrs. Brady and Longbourne) for a conspiracy to induce persons unknown not to pay rent, in respect of meetings held on September 29 and October 13 and 27 in the previous year at Elphin and Strokestown. In the course of his speech Mr. Cox said that he had gone down to Clare to endeavour to settle some disputes, and that he had been collecting rents there. He had never met tenants who paid rents under the Plan of Cam-

paign with more alacrity. 'Don't imagine,' he said, 'I came down here to advise you to adopt the Plan of Campaign.' The long interval which elapsed between this meeting and the prosecution led to the common belief in Ireland that the authorities had dug up this old case against him, in order to put out of the way a man who was actively engaged in the interest of the tenants of Captain Vandeleur, in their long-pending dispute with their landlord.

In the Vandeleur case the dispute was subsequently referred to arbitration, and the arbitrator gave his award in favour of the tenants. Mr. Cox does not appear to have been convicted for anything which he said himself at these meetings, but for speeches delivered by Mr. Sheehy, Mr. Fitzgibbon, and others, in which boycotting was defended and recommended.

Mr. Cox and Mr. Tully were found guilty, and were sentenced to four months' imprisonment as common criminals. On appeal, Mr. O'Connor Morris reduced their sentences to six weeks' and two months' imprisonment as first-class misdemeanants. In giving his judgment Mr. O'Connor Morris said that 'it was the greatest satisfaction to him that there was no attempt at the meetings in respect of which the prosecution was held of using outrageous language of an unreasonable kind—language that would lead to a breach of the peace.'

Later on, at Clonmel, the Mayor of that town (Mr. Condon, M.P.), his brother, and three other persons were charged before Messrs. Considine and Bodkin with conspiring to induce the people not to buy cattle from a man named Tobin. The magistrates sentenced them to terms of imprisonment varying from two months to six months 'with hard labour,' and the sentence on Mr. Condon has since been confirmed on appeal.

Mr. Sheehan, M.P., was also prosecuted and sentenced to imprisonment for a speech of the same character as those

of Mr. O'Connor and Mr. Sheehy, as were also several priests and editors of newspapers. The prosecution and conviction of Mr. E. Harrington, M.P., for reporting in his own paper his own speech, at a meeting of a branch of the National League in a proclaimed district, has already been dealt with.¹

More recently an English member has shared the work of the Irish members, and has been prosecuted and convicted under the Crimes Act, but has not shared their fate in being treated as a common criminal. Mr. Conybeare, the member for the Camborne division of Cornwall, went to Donegal to the scene of the dispute between Mr. Olphert and his tenants at Falcarragh. After inquiry, and after hearing the personal explanations of the landlord, he came to the conclusion that Mr. Olphert's action had been harsh and unjust. He joined with Mr. Harrison, an Oxford undergraduate, and others in demonstrations of sympathy with the tenants; they conveyed food to the destitute tenants, who, after being evicted from their houses, had retaken possession of them and were legally trespassers there, and were being besieged by the police. Mr. Harrison was arrested while in the act of giving food to one of these tenants. At a demonstration when Mr. Harrison was being conveyed to gaol, Mr. Conybeare shouted out, 'Three cheers for the Plan of Campaign!' Mr. Conybeare and Mr. Harrison were then prosecuted for a 'criminal conspiracy with one Benson and others to interfere with the administration of the law by frustrating and setting at naught legal writs.' The two resident magistrates before whom the cases were tried acquitted Mr. Harrison, but convicted Mr. Conybeare, and sentenced him to three months' imprisonment as a common criminal. Practically the only distinction between the cases of Mr. Conybeare and Mr. Harrison was that the former had shouted, 'Three

¹ *Supra*, p. 16.

cheers for the Plan of Campaign !' Mr. Conybeare appealed, and the case came before the County Court judge, Dr. Webb. Dr. Webb affirmed the conviction, but directed that Mr. Conybeare should be treated as a first-class misdemeanant. It is well to quote the judgment of Dr. Webb for the purpose of showing the opinion of the judge as to the grave nature of the crime which he imputed to Mr. Conybeare, and of pointing out that, in spite of this, he considered the offence to be a political one, and treated it accordingly. Dr. Webb, in giving judgment on the case, said :

'The case formed a deplorable episode in a series of deplorable events—events which had been attended with untold sorrow and disaster. Some reference to antecedent circumstances was necessary, not for the purpose of incriminating the defendant, but for the purpose of understanding the nature and significance of the charge which was brought against him. Mr. Olphert, in self-defence against the Plan of Campaign, had resorted to the protection of the law, and a number of evictions followed. To these evictions the tenants offered a desperate resistance. They barricaded their houses, assaulted the bailiffs, dangerously wounded an officer of the constabulary, and only surrendered when the soldiery were ordered to fire. . . . Such was the heated temperature when, on April 14, Mr. Conybeare arrived on the scene, and, if ever there was a case in which it became a casual visitor or an official visitor to act warily, it was when he entered on a scene in which passion had been aroused, and in which such violent outrages against the law had been and were in course of being committed. . . . On the night of the day of Mr. Conybeare's arrival, the tenantry of the different townlands, with a concurrence that showed concerted action, took forcible possession of their former houses, and followed up their illegal act by forcible detainer. Now, in England from the earliest period

of the law forcible entry and detainer had been deemed misdemeanours of the most serious character. Now, he could well understand Mr. Conybeare sympathising with the misfortunes of the tenants, but that did not involve participation in their crimes, and the question he had to decide was whether Mr. Conybeare did so participate. Having regard to the evidence, he could not for a moment doubt that Mr. Conybeare and Mr. Benson were engaged in a criminal conspiracy to interfere with the due administration of the law by aiding and abetting various parties, who were holding forcible possession of the premises, from which they had been evicted, with the object of frustrating the decrees and warrants of the instituted authorities of the country. Now, when he recollected the deplorable consequences of this conspiracy—the assaults, the homicides, the ruin of humble people—he could scarcely imagine a graver crime than co-operating under such circumstances with the disturbers of the peace, and with those who interfered with the due administration of the law. He gave every effect to the motives of Mr. Conybeare, and still more to the fact that Mr. Conybeare had not sufficient knowledge and experience of the country. He intended, therefore, to direct that he should be treated as a first-class misdemeanant, but he would affirm the sentence of the magistrates of three months' imprisonment.'

On the premises of the judge, the conclusion may have been justified. But not the less it is a case, in which it is certain, that no jury in the United Kingdom would have found a verdict against Mr. Conybeare. It would have been impossible to withdraw from the jury the consideration of the origin of the dispute between these tenants and their landlord, the harsh treatment they had been subjected to, and their general condition. That Dr. Webb was justified, after describing the action of Mr. Conybeare as a most serious offence, in directing that he should be treated as a

first-class misdemeanant, is only in accordance with all that has been contended for in the preceding pages ; but his decision in this respect forms a most striking contrast with his own previous decision in the case of Mr. Blane, M.P. Mr. Blane's action was of very much the same character as that of Mr. Conybeare. He was charged, at the same time as Father McFadden and Father Stephens, with inducing the tenants of this district to adopt the Plan of Campaign. The same County Court judge, Dr. Webb, on appeal affirmed the convictions, but directed Father McFadden and Father Stephens to be treated as first-class misdemeanants, while he increased the sentence on Mr. Blane to six months' imprisonment as a common criminal. He justified the distinction between the treatment of Father McFadden and Mr. Blane, in his judgment, as follows : 'Mr. Blane came down to Donegal a perfect stranger to interfere between the landlord and tenant, and encourage a criminal conspiracy known as the "Plan of Campaign." Mr. Blane was an interloper. His conduct was altogether unjustifiable and criminal. That being so, it seemed the magistrates in the court below took an insufficient view of the gravity of the case in giving a sentence of four months. He felt he should not be doing his duty if he failed to give a sentence in some measure commensurate with the crime. He would, therefore, adjudge that the appellant should be imprisoned for six months instead of four months.'

The only distinction between Mr. Blane and Father McFadden was that the former was unconnected with the district, and was, in the opinion of the judge, an interloper. But so also was Mr. Conybeare. In all other respects his action was also of the same quality as that of Mr. Blane ; but while the English member was sentenced by Dr. Webb to three months' imprisonment as a first-class misdemeanant, the Irish member was sentenced to six months' imprisonment as a common criminal. In the one case, English

opinion had to be taken into regard, in the other Irish opinion only.¹

The cases against Irish members are but illustrations of very numerous others against priests, editors of newspapers, tradesmen, farmers and others, who have been convicted and sent to prison for speeches and writings, or for holding meetings, or for numerous other acts of a political character. They have almost without exception been treated as common criminals. In very numerous cases they have been condemned to hard labour; and in no single case has the Executive Government interfered to mitigate their sentences, or secure for them treatment as to political offenders.

It has been attempted in the preceding pages to give a fair review of the acts and speeches of the Irish members, which have led to their being prosecuted and convicted under the Crimes Act, and to their being treated, with rare exceptions, as common criminals. It is probable that there will be great difference as to what opinion should be passed upon some or all of these actions and speeches. To some it may appear that they were criminal in the ordinary sense, and were such as to justify severe and harsh treatment of their authors as common criminals. Others will deny that these acts constituted offences of a moral character, and will condemn *in toto* the convictions, and, still more, the treatment of such offenders as common criminals. It is certain

¹ From the proceedings before the Special Commission, it appears that Dr. Webb, shortly before his appointment to the Bench, was engaged in the same work as the notorious Mr. Richard Pigott, in getting up the charges against the Irish members, which formed the substance of the articles in the *Times* on 'Parnellism and Crime.' He received 200*l.* from the Loyal and Patriotic Union for one of his pamphlets on this subject, entitled 'Ipse Dixit.' For political services exclusively he was appointed County Court Judge in 1888, and he signalled his first Session on the Bench by increasing the sentences on Father McFadden and Mr. Blane, and by refusing to concede to the latter the treatment of first-class misdemeanant.

that most of these men have done or said nothing which constitutes an offence against the ordinary law. It is probable that not one of them would have been convicted for any of their acts or speeches by any jury, fairly empanelled, whether in Ireland or in Great Britain. No stronger proof can be produced for this as regards Ireland than the action of the Government in Mr. Dillon's case. They dared not try him by a jury, even a special jury, in any part of Ireland, and they therefore withdrew his case from the consideration of a jury by proclaiming the district in which he spoke, after his speech, and for the express purpose of enabling them to send his case before the resident magistrates. Mr. Wilfrid Blunt's case is another illustration of this. He was tried and convicted by two resident magistrates and by a County Court judge for a purely technical assault on a police officer, in endeavouring to assert his right to hold a public meeting, and where the question was whether the meeting was an unlawful one. The resident magistrates and the County Court judge felt no difficulty in affirming the illegality of the meeting, and in condemning Mr. Blunt in language of an insulting character; but when the same issue was tried at Dublin in a civil action before a special jury, on which were many Protestant Unionist jurors, only one juror out of the twelve stood out against giving him a verdict against the Crown. It is absolutely certain, therefore, that no jury would have convicted him on the criminal charge.

It is equally certain that these members have suffered nothing in the opinions of their countrymen, or even in those of vast numbers, if not the majority, of Englishmen by their being convicted and imprisoned. On the contrary, they have come out of prison covered with honour, and with the profoundest sympathy in their sufferings, not only of their constituents and countrymen, but of great masses of people in Great Britain. Whenever they have since appeared on public platforms in any part of England and Scotland, Mr.

Dillon, Mr. O'Brien, and Mr. T. D. Sullivan have been received with an enthusiasm rarely accorded even to the most popular of leaders ; and the less known members of the Irish party have found no better passports to cordial receptions on English platforms than that they have been imprisoned as common criminals under the Crimes Act. The object of punishment is to deter people, including the persons prosecuted, from committing the same acts again. The treatment of the Irish members and others has had the exactly opposite effect. It will have been observed that those who have come out of prison have not only not been deterred from repeating the offences for which they were imprisoned, but the very reverse, and that their language on being set free again was even stronger than that for which they were first imprisoned. It cannot be doubted that the example given by the Irish members in braving the Crimes Act and in suffering imprisonment, as common criminals, has had the most important effect in nerving hundreds of other persons in Ireland in the agrarian struggle which has been going on. The gaol has lost its terrors for such people ; great numbers of persons have gone to prison rather than give an undertaking to the authorities not to repeat the acts, for which they have been prosecuted, or rather than give bail for good conduct. The treatment, therefore, of their leaders as common criminals has had the very opposite effect to that intended.

It is not proposed, however, to argue the question whether all these men committed offences against the law, or not. It might be admitted for the sake of the present contention that they committed offences against the Crimes Act. The question still remains whether in so doing they were actuated by public and political motives ; whether there was anything about their acts and speeches of a criminal character, in the ordinary sense of the term, and which would impress upon them the stigma of disgrace and dishonour, which attaches to thieves, felons, and other ordinary criminals.

. There are few who contend that this is the case ; even their opponents in the House of Commons receive these men when they come out of gaol as equals, as men who are not discredited or disgraced by having been in prison. Even those who most disapprove their actions, rarely suggest that they have been actuated by dishonourable motives. This being so, these men must be counted as political offenders in the ordinary sense of the term, and not as criminals ; they should, therefore, have been treated with the indulgence and consideration which are all but universally accorded in other countries to political prisoners.

CHAPTER V

THE treatment of political prisoners in most countries in Europe, as in so many other matters, follows the example of France, where these questions have long ago been thought out and determined on in a spirit of enlightened policy. In France there is no special law determining what cases are to be included in the list of political offences. It is reserved for the Minister of the Interior to decide in each case as it comes before him, whether the particular offence comes within that category or not; but in practice the discretion of the Minister has been widely exercised.

All infractions of the law relating to speeches and writings, all offences connected with public meetings, all acts committed against the State, all incitements to revolutionary movements, whether of a political or social character, however extreme, are reckoned in practice among the list of political offences, provided they are not immediately accompanied by wanton destruction of property. For instance, Prince Kropotkin and his followers, who preached a very extreme doctrine against private property, were treated as political offenders, while the *pétroleuses*, who, during the Commune of Paris, set fire to public buildings, were treated as ordinary criminals.

The treatment of political prisoners in France is very much the same in comparison with ordinary criminals as that of first-class misdemeanants in England, and in some respects is even more generous. They receive a far better

dietary than other prisoners ; they are allowed to provide themselves with food and drink from outside the prison ; they are provided with books and writing materials ; they are allowed to see their friends four times a week without the presence of a warder ; they are exempted from wearing the prison dress. A separate quarter in the gaol is assigned to them ; and, in grave cases, involving imprisonment of over a year, they are sent to a special gaol set apart for such offenders. Those imprisoned for debt or for infractions of police regulations are entitled to the same treatment as political offenders.¹

The same general principles have been followed by other countries in Europe in their treatment of political offenders. In Germany political offenders are subjected to simple detention in a fortress without any of the usual treatment to which other criminals are subjected. In Austria they are permitted to wear their own clothes, to supply themselves with food from outside the prison, and they are allowed whatever books they wish for. The same is the case in Spain, where the Carlist prisoners were treated with indulgence of this kind. In none of these countries, however, is there any legal definition of what constitutes a political offence for such purposes. It is left to the administration to determine whether individual offenders should be treated as political offenders or not.

Even in Russia a great advance has been made of late years.

A recent traveller in Siberia has stated that political prisoners are there kept apart from common criminals ; are allowed to wear their own clothes, to provide themselves with books and furniture, and to have their families residing

¹ An interesting memorandum by the late Dr. Lyons, on the treatment of political offenders in France, is printed in the Appendix to the Report of the Royal Commission on Treason Felony Convicts, 1871.

with them or near them. After a time they are placed in villages and towns where they follow trades and professions, and earn their living. Even Nihilists, and those concerned in attempts on the life of the Emperor, are reported to be treated with exceptional indulgence as compared with other criminals.¹

In England the subject of the treatment of political prisoners has never been dealt with in a comprehensive manner. It has been left very much to chance—to the spasmodic influence which public opinion through Parliament has brought upon the Government in particular cases. It may be said broadly that the tendency of the Executive Government has generally been in favour of severity, and opposed to any distinction in the treatment of political prisoners and ordinary criminals, and that whatever relaxations of such severity have been adopted, have been forced upon them by public opinion. The Prisons Act, when originally introduced to Parliament, contained no provision pointing to any distinction between offences; it was due to Mr. Parnell and other private members, in spite of the Government, that a clause was introduced in it directing that persons, convicted of sedition and of seditious libel, should be treated as first-class misdemeanants.² It is obvious that these two classes by no means exhaust the category of offences which should come within the same policy.

Previous, however, to the Prisons Act, although there was no law upon the subject of the treatment of political offenders, yet in practice they were, under the influence of public opinion, in the few cases of which we have record, treated with exceptional indulgence. If the cases have not been more frequent, it has been that prosecutions for

¹ 'Through Siberia,' Henry Lansdell, 1882, quoted by Dr. Siegersson in a letter to the *Freeman's Journal*, July 12, 1889.

² There is no record of this discussion in Hansard's Reports. It occurred at a very late hour of the night.

offences of this kind have not been numerous in England, as distinguished from Ireland, and convictions have been still rarer, owing to the extreme unwillingness of juries to convict in such cases, however strongly the judges may have directed them. In the rare cases, however, which occurred before the Prisons Act, and where juries have convicted for political offences, the prisoners have not been treated as common criminals, but with exceptional indulgence. Thus in 1809, Cobbett was indicted for the very serious offence of inciting soldiers to mutiny in an article in his 'Weekly Register.' He was convicted, and sentenced to two years' imprisonment and to a fine of 1,000*l.* He was not treated in gaol as a common criminal. He was allowed to hire the Governor's rooms, where his family resided with him. He edited his weekly paper while under this restraint, and he continued to make it the medium of the most bitter attacks upon his political opponents. He conducted his farming operations on a large scale from his prison, and he saw his friends without hindrance. In fact, his punishment was simple detention.¹

When Leigh Hunt, in 1813, was convicted of a treasonable libel on the Prince Regent, and was sentenced to two years' imprisonment and a fine of 500*l.*, he was treated in the same manner as Cobbett. A suite of rooms was allotted to him in the prison infirmary, which he was allowed to decorate as he pleased. His wife and children were permitted to be with him. He had abundance of books. He had the use of the Governor's garden, and cultivated flowers there, and his friends were allowed to visit him daily till 10 P.M. He was visited in gaol by Byron, Moore, Brougham, Charles Lamb, Bentham and many other sympathisers. In consequence of

¹ For fuller details of this and other cases illustrating the treatment of political prisoners, see Dr. Sigerson's recent able and exhaustive letters to the *Freeman's Journal*, to which I am largely indebted.

this imprisonment a political direction was given to his career.

In 1840, when the prison authorities appear to have been less disposed to treat such cases with exceptional leniency, we find the House of Commons interfering and insisting upon a distinction being drawn between political offenders and ordinary criminals. Henry Vincent was convicted at Cardiff of having attended seditious meetings, where very dangerous language was used, and he was sentenced to twelve months' imprisonment. It became known that he was treated at Millbank with severity, that he was compelled to wear the prison dress, and was deprived of the use of books. Serjeant Talfourd, who had prosecuted him, interfered on his behalf in the House of Commons. He presented a petition from Birmingham signed by 14,000 persons praying that Vincent might be relieved from such treatment, and he raised a debate on the subject in the House of Commons.¹ 'Such treatment,' he said, 'was inappropriate to the case of persons committed for political offences, and it afforded a striking contrast to the kind of punishment formerly awarded. Political offenders had been allowed to continue their political writings, and were allowed the use of books and free communication with their friends; in short, the punishment they received was confined solely to restriction on their personal liberty.' He referred to the cases of Sir Charles Wolseley and Mr. Levett, the proprietor of the 'Statesman,' who was allowed to correct his proof-sheets while in prison. Many other members on both sides of the House joined in the debate. Mr. Hume and Mr. Thomas Duncombe protested strongly against the treatment of Henry Vincent. All the speakers were of one mind. Lord J. Russell, on behalf of the Government, was compelled to allay the general feeling. He admitted that the rules of

¹ Hansard, vol. 54, p. 895.

Millbank had made imprisonment in such cases more severe than was intended. 'There certainly was reason for a change.' Orders were accordingly given for a change of treatment; and Henry Vincent was thenceforward treated as a first-class misdemeanant.

The same question was raised in respect of Feargus O'Connor, who in the same year (1840) was convicted of seditious conspiracy and language calculated to lead to riot. O'Connor was imprisoned in York Gaol, where he was treated as a common criminal. Petitions against this treatment were presented by Mr. Duncombe, and were supported by Serjeant Talfourd. O'Connell declared this treatment to be a gross violation of the law. The Attorney-General, in reply, asserted that whilst he had prosecuted O'Connor, none would more deeply regret if the account of his treatment should prove true.¹ A fortnight later the Home Secretary (Lord Normanby) stated in the House of Lords that political prisoners should not be treated as felons; he suggested the passing of a temporary measure to enlarge the powers of the Home Secretary. On the same day, in the House of Commons, Serjeant Talfourd referred again to the case of Feargus O'Connor. The Under-Secretary said that the Home Secretary had written to the visiting magistrates informing them that it was proposed to alter and relax the rules with reference to the health, the station, the habits, and other particulars of this case. In the House of Lords, on June 2, Lord Brougham again called attention to the subject on presenting a petition from Bradford protesting against the treatment of O'Connor as a common criminal. 'If there were any truth whatever,' he said, 'in these statements, there was cause for the deepest regret and great danger of exciting that feeling so fatal to the designs of all punishments—of indignation at the treatment of the offender instead of at

¹ May 27, 1840; Hansard, vol. 54, p. 647.

his offence.' ¹ And again later Lord Denman (Lord Chief Justice) presented a petition from Leeds to the same effect, praying for a free pardon for Feargus O'Connor in consideration of the sufferings he had endured. Lord Normanby then described the modified treatment which he had directed. 'O'Connor was allowed newspapers and other books as he wished ; he had tea and sugar without restriction, animal food at dinner, and glasses of wine ; he had four flock beds, a pillow, chair, and table ; and he was allowed to wear his own clothing, and to see his friends.' Finally, orders were issued that there should be nothing in the treatment of Mr. O'Connor of degradation or personal indignity. The duration of his imprisonment was shortened in consideration of the hardship with which he had been treated at the commencement.

It has already been pointed out that the Prisons Act of 1877 for the first time laid down the principle that those convicted of certain offences of a political character, namely, sedition and seditious libel, should be treated with exceptional indulgence, as first-class misdemeanants ; and that those imprisoned for contempt of court, or as debtors, should be subject to very similar treatment. It is obvious that these classes of cases do not exhaust the list of those who should be treated in the same manner ; and undoubtedly a few cases have occurred since the Act, even in England, where persons have been treated in prison as common criminals, for offences which should properly come within the same policy as those specially provided for.

Members of the Salvation Army have not unfrequently been fined by magistrates for obstructing the streets with their processions, and, on refusing to pay the fines, have been sent to prison as common criminals. They cannot be considered as criminals in the ordinary sense. They have

¹ Hansard, vol. 54, p. 917.

acted from a sense of duty which should have relieved them from such treatment. Of a similar character are offences against the Vaccination Laws. Some few cases have occurred, where persons, refusing to allow their children to be vaccinated, have been sent to prison as common criminals for non-payment of the fines. The number cannot be large; for, according to the judicial statistics for the year ending September 1887, of nearly 1,800 convictions under the Vaccination Acts, there was not one case of imprisonment. There have, however, been such cases. In one of them the question was raised in the Court of Appeal whether the prison authorities were justified by the Prisons Act in treating such men as common criminals, or whether these offenders should have been treated as debtors. In this case the offender had refused on principle to allow his son to be vaccinated. For this he was fined one pound under the Vaccination Act; he refused to pay, and a distress was levied on his goods, but was returned unexecuted. He was then ordered to be imprisoned for fourteen days. He was arrested and conveyed to gaol. There he was ordered to take a bath, and whilst in the bath, his ordinary clothes were taken from him, and prison clothes were substituted, which he was compelled to wear. His deceased wife's wedding-ring which he always wore was removed from his finger. He was also throughout the fortnight compelled to pick oakum, to sleep on a plank bed, and to take his exercise with other criminals. He was also not allowed to procure his own food, though he offered to pay for it, but was compelled to live on the prison fare. He brought an action for assault against the governor of the gaol and his two warders, for improperly treating him, and it was contended that as there was only a fine imposed on him in the first instance, he was in fact a debtor to the Crown, and should have been so treated under the Prisons Act. Lord Justice Lindley delivered an elaborate judgment

in the case, in which he held that the plaintiff was rightly treated as an ordinary offender. 'Though he became,' said the judge, 'a debtor to the Crown in respect of the penalty imposed on him by the justices, he was also guilty of a wilful breach of a statutory duty, and for that he was duly convicted. This breach of duty was a punishable offence, and it would be contrary to all legal principles to hold that he was legally entitled, on payment of the fine, to disobey the plain injunctions of the statute.'¹ Whatever, however, the technical view of the words of the statute, it would seem more reasonable and proper that such persons, imprisoned either because they cannot pay the fine or because they will not in conscience do so, should not be treated as common criminals, but should be dealt with as political prisoners. It may well be that there are a few other cases of the same kind ; and now that public attention has been directed to the subject, it will be right and reasonable that offenders in these cases should be relieved of the indignities and hardships to which ordinary criminals are subjected.

¹ *Kennard v. Simmons and others*, 15 Cox's C.C. 397.

CHAPTER VI

IN Ireland till a comparatively late period political prisoners were treated in the same manner as they are in England. In 1832 Marcus Costello was prosecuted for attending an anti-tithe meeting, and a jury found this meeting to be unlawful. Costello was sentenced to a year's imprisonment; his treatment in prison was that of Cobbett and Leigh Hunt.

In 1844 O'Connell and several leaders of the Repeal movement, including Mr. Gray, Mr. Gavan Duffy, and others, were prosecuted and convicted of having unlawfully, maliciously, and seditiously combined and confederated together to commit offences by violent means involving intimidation and terror, and by inflammatory and seditious speeches. O'Connell was sentenced to twelve months' imprisonment, to a fine of 2,000*l.*, and to find security for his good behaviour for a term of seven years in the sum of 10,000*l.* His colleagues also were sentenced to imprisonment. They were sent to prison at once, in spite of the fact that serious questions of law were raised on the indictment and on the panelling of the jury, which ultimately were determined by the House of Lords in favour of the accused. Their treatment in prison during some months which intervened before they were liberated by the decision of the House of Lords is fully described by Sir Charles Gavan Duffy.¹

They were allowed to hire the residences of the principal

¹ *Young Ireland*, p. 492.

officers of Richmond Gaol. They had their meals in common and were allowed to ask guests to them. They seldom sat down to dinner fewer than thirty in number. O'Connell fitted up his room as a library and commenced to write his memoirs. Those who were connected with the Press continued to write for their papers. Duffy edited in Richmond Gaol the 'Nation ;' John O'Connell and Hay contributed articles to it. Gray and Duffy took lessons in elocution. They were allowed to fence, and to take exercise on horseback in the principal yard ; a gymnasium was fitted up for their use. O'Connell sent weekly a review of the political position to the Repeal Association. The only restriction imposed, other than that of mere detention, was that O'Connell was forbidden after a time to receive deputations.

In 1848 Smith O'Brien, McManus, O'Donohue, and Meagher were tried for high treason, and were convicted and sentenced to be hanged ; the sentences were then commuted to transportation beyond the seas. Pending this the prisoners were treated with every consideration, were permitted to have their books and to correspond with their friends. On the voyage to Van Diemen's Land they were given separate cabins and were treated with respect. On reaching their destination they were allowed complete liberty so long as they remained in the colony. O'Donohue started a journal. Smith O'Brien was joined by his family, and was at full liberty (after giving his parole) to go unmolested, wherever he wished, and to see any friends he desired.

In 1848, chiefly in consequence of the difficulties which had arisen from the necessity of trying O'Brien and the leaders of the Young Ireland party for high treason, there was passed the Treason Felony Act. Certain offences, theretofore considered as high treason, were made punishable under the Act as acts of felony. It was proposed to Parliament as a measure which would deal with offenders in a milder manner than under the existing law of treason.

Nothing was said of any intended change as regards the treatment of persons imprisoned under it.

The first person tried under this Act was John Mitchel, editor of the 'United Irishman,' who gloried in preaching open and avowed treason. He was convicted and sentenced to fourteen years' transportation. He has told the story of his experiences as a political convict in his 'Gaol Journal.' He was generally treated with kindness and consideration, and in no way as an ordinary criminal. On his removal by ship to Spike Island he was received on board by the captain and conducted to his cabin, which was one of the best in the ship. He took his meals with the officers. At Spike Island he was at first treated more as a convict. He was compelled to wear the prison dress, but by orders from Dublin this indignity was spared him; the governor was directed to treat him differently from other prisoners and to let him wear his own clothes. He took separate exercise, and was allowed what books he desired. On his way out to Bermuda in a convict-ship he was again well treated; the best cabin in the ship was assigned to him, and he took his meals with the captain. On board the hulk at Bermuda he was allowed a separate cabin, and had his books with him. Finally, owing to the climate disagreeing with him, he was sent, in 1850, to Van Diemen's Land, where he met with O'Donohue and other friends, and where his family were allowed to join him.

In 1865, for the first time, a very different treatment was accorded to men convicted of political offences of a very serious nature under the Treason Felony Act. The Fenian movement commenced in this year, and continued more or less during the two following years. A considerable number of persons were prosecuted under the Treason Felony Act, and were convicted and sentenced to terms of penal servitude varying from five to twenty years. Among them was John O'Leary and O'Donovan Rossa, the editor and publisher of

the 'Irish People,' Thomas Luby, John Devoy, Charles Kickham, and other well-known leaders of this movement.

These men, twenty-nine in number, were sentenced to penal servitude under the Treason Felony Act, and were transferred to the English convict prisons by way of precaution. They were, in the first instance, treated in almost every respect as ordinary convicts guilty of the most degrading crimes; they were compelled to wear the convict dress; they were deprived at Millbank of their own flannels; at Portland, Woking, and Chatham they were put to convict work of the same rough kind as other convicts, viz. the hewing of rock, the carrying of flagstones.

In 1867, grave complaints arose as to the treatment of these treason-felony convicts in the English prisons. It was alleged that they were treated with even exceptional severity and harshness. Two lawyers, Mr. Knox and Mr. Pollock, were appointed by the Home Secretary (Mr. Walpole) to report upon their treatment.

From the report of these gentlemen, it appears that the Chairman of the Board of Convicts stated to them that he had received directions from the Government to treat the treason-felony prisoners as ordinary convicts, and that he had given directions in the same sense to his subordinate officers. He claimed, however, that they had been treated with all the humanity and consideration that was possible; that at Portland and other convict prisons they had been kept apart from other convicts, save in two cases, where they had been associated, for a very brief period, with ordinary convicts, as a punishment for insubordination. He also stated that at Portland a less amount of work had been required of them than from other convicts, and that they had not been subjected to the same severity of punishment as ordinary convicts for infringement of the rules and regulations of the prison. In proof of this he stated that O'Donovan Rossa had been transferred from Portland to Millbank for his insolent and

open defiance of the prison authorities. Had he been an ordinary convict he would have been subject to corporal punishment. With these exceptions there appears to have been no difference in the treatment of these men as compared with that of ordinary convicts. 'We found, as a fact,' says the report, 'and as a result of all our inquiries, that the treason-felony convicts were worked exactly as any home party, or party which is worked near the prison, is worked. They were sent to work in foul weather as in fair, but with this proviso, that in bad weather or rain they were allowed to work at stone-dressing under the shelter of a shed.'

Mr. Knox and Mr. Pollock, in their report, relieved the officials of the convict establishment of the charges against them of exceptional severity towards these prisoners. Throughout the whole of their report there is not the slightest indication that in their opinion the prisoners in question were entitled to any exceptional leniency or difference in treatment from other convicts, by reason of their offences being of a political character. 'We have neither the power nor the wish,' they said, 'to exceed the bounds of our commission. As convicts we found them, and as convicts we have thought of them and have spoken of them throughout. Viewed in this light, we are satisfied that they have been treated with exceptional forbearance and kindness. There is not the slightest foundation for the charges of severity and cruelty which have been brought against the convict authorities. The very reverse of that is the truth . . . A convict's life is bitter treatment at the best. Place him under the best sanitary conditions; treat him with what humanity you will; the privation of liberty, the enforced seclusion and equally compulsory labour, the terrible monotony of the life, the stern order and instant obedience—constitute a terrible punishment. We know that these men have a better diet, sleep on better beds, are more cared for in sickness, have lighter labour than the bulk of prisoners

in the three kingdoms, and that the stories of their ill-treatment are simple falsehoods ; but the meanest and poorest labourers in the Empire would scarcely change places with them. Penal servitude, we repeat it, is a terrible punishment ; it is intended to be so, and so it is . . . The convict authorities, however, must do their duty to all alike. The only true cause of complaint the treason-felony convicts have against them is that they can't get out.'

In spite of this report, which appeared to shut out all hope of recognition that these men were political prisoners, and would receive, as such, exceptional treatment, a change was soon after made in this direction. In 1869, a change of Government took place, and Mr. Bruce, now Lord Aberdare, became Home Secretary, and it is to his lasting credit that he took an early opportunity of enforcing this distinction. A petition reached him from two of the treason-felony prisoners, complaining of their diet, and alleging that their health had suffered in consequence. The Home Secretary, in his reply to the Director of Convict Prisons, wrote as follows : 'Mr. Bruce gathers from the representations in this memorial that it is not so much a more generous diet, as a different diet, they ask for ; and he is of opinion that in the case of these political prisoners, especially when confined for life or a long period of years, some relaxation of the strict rules of diet might, in accordance with a practice of most countries, be allowed.'¹

The better diet thus authorised for the two prisoners was later extended to all the treason-felony prisoners, and the officials of the convict establishments appear to have acted on the suggestion that these men were to be considered as political prisoners. It is stated by Dr. Sigerson that Dr. Mulcahy (one of the prisoners) had assured him that from the date of Mr. Bruce's appointment a vast and general

¹ Report of the Commissioners on the Treatment of Treason-Felony Prisoners. 1871.

change for the better was adopted by the prison authorities towards these men.

In 1870, in consequence of further complaints of the treatment of these men, a Royal Commission was appointed to report on the subject. Lord Devon was the chairman of the Commission ; and other members of it were the Hon. G. Brodrick, Mr. Stephen De Vere, Dr. Lyons and Dr. Greenhough. They reported that, ' after a patient and minute investigation, they did not find any ground for the belief that these treason-felony prisoners had, as a class, been subjected to any exceptionally severe treatment, or had suffered any hardships, beyond those incidental to the condition of prisoners sentenced to penal servitude.'

' It appeared, on the contrary, from the evidence of prison officers, confirmed in certain cases by the prisoners themselves, that the prison authorities had sanctioned from time to time certain relaxations in their favour. They had for the most part been formed into separate working-parties, and had seldom been associated in labour with other convicts except by way of punishment ; they had generally been placed in cells of a superior class ; the ordinary restrictions on letter-writing had been relaxed on their behalf ; their diet is slightly better, and their enforced labour is lighter than in the case of other prisoners under similar treatment.'

' It is perhaps inevitable that men in the position of the treason-felony prisoners should resent the degrading, though the ordinary incidents of convict discipline, with peculiar impatience, and the more so if they have received a good education and filled respectable positions in life. The treason-felony convicts have, in fact, never ceased to protest against being classed as criminals as a moral degradation ; and every privilege, however trifling, which they have succeeded in obtaining, has but confirmed their belief in the justice of their demand.¹

¹ Mr. Fagan, one of the Directors of Convict Prisons, said of these

‘A further question was forced on our attention in the course of our inquiries, though it does not strictly fall within the limit of our instructions. It is the question whether prisoners convicted of a crime so exceptional in its nature, that it has been thought right to modify prison discipline in their case to a certain extent, might not with advantage be more completely separated from the general body of convicts. We cannot be insensible to the difficulty, not unattended with danger, of allowing any exceptional indulgences to a few individuals, in the midst of a large prison population. Bearing this in mind, we are led to the conclusion that the difficulties attendant upon the location and treatment of political offenders may perhaps be most readily and effectually overcome by setting apart, from time to time, a detached portion of some convict prison for prisoners of this class.’

It would seem, then, that in spite of the original intention to treat these men exactly as other convicts, it was found impossible to maintain this policy, and that by degrees exceptional indulgences were accorded to them on all the main points, which distinguish the treatment of the political prisoner from the common criminal. Mr. Bruce, in his memorandum to the convict authorities, recognised their right to be considered as political prisoners, and the Royal Commission affirmed the same principle, and recommended that they should be placed in a separate prison. No action followed on this report, for within a short time the question was disposed of by the amnesty accorded to the treason-felony prisoners.

men that hardly any work was got out of them, that during exercise they were allowed to converse, that their diet was better than that of other convicts, that they could obtain an extra blanket, that they had generally been placed in cells of a superior class, that some of them were allowed to wear their hair, and that they had also been exceptionally treated as regards their correspondence, the visits of friends, and in respect of books.

In the meantime other cases had occurred, not under the Treason Felony Act, but under the ordinary law. In 1868, Mr. W. Johnston, of Ballykilbeg (now member for Belfast), a well-known leader of the Orange party, was prosecuted, and convicted of taking part in an illegal assembly on July 12, and was sentenced to a month's imprisonment. He was at once offered release on the ground of bad health, but he refused to enter into recognisances for good behaviour, lest he should appear to plead guilty to a charge of intention to create animosity and to provoke a breach of the peace. He said he was prepared rather to risk his health than so to implicate himself and those who had acted with him. He was liable at law to be treated as a common criminal. In fact, however, during his imprisonment he was kept separate and took his exercise apart, was allowed books and writing materials and was permitted to correspond with his friends; he also had extra nourishment and was allowed to see his friends in the presence of the turnkey. Exception was taken to this, and Lord Mayo (then Chief Secretary) was asked in the House of Commons whether the visits of friends to Mr. Johnston might not be in private. Lord Mayo said that he had written to the governor of the gaol to the effect that the Government would make no objection to this.¹

About the same time also the late Mr. A. M. Sullivan and Mr. Richard Pigott (since so notorious in connection with the forged letters and the 'Times') were prosecuted for a long series of seditious libels, and were sentenced to six months' imprisonment. This was before the Prisons Act, which directed that such prisoners should be treated as first-class misdemeanants. Mr. Maguire raised a question in the House of Commons with reference to their treatment. Lord Mayo replied that the law placed Sullivan and Pigott on the footing of common criminals, but the Prisons Board had relaxed some of the rules in respect of their treatment, and

¹ Hansard, vol. cxc. p. 469.

others had been relaxed by the authority and on the recommendation of the Government, and he showed that they had practically been treated as first-class misdemeanants. They were not placed with other prisoners ; they were provided with wine, ale, and other food ; they were allowed any periodicals and books they asked for ; the rule as regards visits had been relaxed, and would be further relaxed, so that they might see their friends without the presence of a gaol officer.

Lord Mayo said he had acted in this matter precisely as the Home Secretary had acted in England in the cases of Feargus O'Connor and Henry Vincent. 'I have taken upon myself,' he said, 'as an officer of the Government, and on my own authority, to authorise a very large departure from the rules which the Prisons Board have laid down. In that respect I have, perhaps, assumed an authority which did not altogether belong to me. I felt so strongly that the regulations made by the Prisons Board were not intended for the treatment of prisoners convicted of this class of offence, that I felt it my duty to authorise a departure from the rules. In doing so I believe I only fulfilled my duty.'¹

In this case the Attorney-General for Ireland had said, in an earlier part of the debate, that 'he had no hesitation in saying that these men were tried for offences of deeper moral guilt, and of a more mischievous character, than had been committed by many who had been sentenced, and were now under punishment, for treason-felony.'

In 1881 Mr. Forster's Coercion Act was passed empowering the Lord-Lieutenant to arrest and detain in prison without trial persons suspected of offences against the law. Many hundreds of persons were so dealt with. Mr. Parnell, Mr. Dillon, Mr. Healy, Mr. Harrington, and several other members of the Irish party were arrested and were imprisoned for many months under these powers. The offence alleged against them was that they were endeavouring to make

¹ Hansard, vol. cxc. p. 441.

Ireland ungovernable, and that they were persuading the Irish tenants to refrain from taking advantage of the Land Act of 1881, by going into the Land Court for judicial rents. The great bulk, however, of those arrested were suspected of very different offences. They were alleged to be the village ruffians of their several districts, and to be closely connected with, and responsible for, if not the actual perpetrators, of the agrarian crimes and outrages then so rife in many districts of Ireland. In fact, however, they were in very numerous cases influential members of the National League, against whom there was no evidence whatever to connect them with crime. They were the leaders in the agrarian movement against the land system in Ireland : the promoters of combination against landlords of their districts who had refused to make abatements of rent. These landlords in too many cases availed themselves of the arbitrary powers of the Government to obtain the imprisonment of those who were so engaged. Included with these were some few others who were rightly suspected of crimes, but against whom no evidence could be obtained to warrant their being put on trial. All these persons, whatever the charges against them, were treated, while in prison, with great consideration, and were practically accorded the same privileges as first-class misdemeanants. The treatment of the Irish members especially left nothing to be desired in point of leniency and consideration.

In 1882, the Coercion Act of the previous year was allowed to drop, and under the excitement caused by the Phoenix Park murders, another Coercion Act was passed, which proceeded on different lines to that of 1881. It enabled the Government to withdraw cases from juries and to try them by two resident magistrates. It gave power to the Executive to proclaim districts and to prohibit therein public meetings and to suppress newspapers. It contained no provision that those convicted under it should be treated as

first-class misdemeanants. The great bulk of cases which occurred under this Act were prosecutions for offences closely connected with outrage and disorder.

Some few prosecutions, however, took place in respect of speeches made at public meetings, and of writings in the press, and those convicted were sentenced to imprisonment as common criminals. No member of Parliament was thus dealt with. The most conspicuous case which occurred was that of Mr. T. Harrington, Secretary to the National League, not then a member of the Legislature. He was convicted, and sentenced to two months' imprisonment for a speech, in which it was alleged he had intimidated the farmers of Westmeath. His treatment as a common criminal roused general indignation in Ireland, and his case was brought under the notice of the Lord-Lieutenant. Lord Spencer has himself described what he did in consequence. Speaking at Glasgow, in October 1888, he said, 'There were not many cases, during my viceroyalty, of prosecutions for speeches. There were, however, a certain number of them, and among them was the case of Mr. T. Harrington. Before I left Ireland, I came to this conclusion, that we had made a mistake in the prosecution of Mr. Harrington. The conviction, which probably was perfectly just and right according to law, did more harm than good. Mr. Harrington was sent to prison. There were other men who, on account of political speeches, were convicted and sent to prison. At first we allowed the ordinary law to take its course. My attention had not been called to the cases, and the ordinary treatment was given to these prisoners. But when Mr. Harrington was in prison, he complained of the treatment which he received. The attention of Parliament was called to it by Mr. Parnell, and the moment that my attention was called to it, I immediately dealt with the matter. I ascertained from Sir William Harcourt, who was then Home Secretary, what he had done in the case of Mr. Davitt at Portland, and in the case of certain other

men who had been convicted and were in English prisons. Having ascertained that, I immediately gave directions that the same relaxations which had been given in English prisons should be extended to men in the same way in Ireland. I directed that Mr. Harrington should be removed from Mullingar to Galway, which is a more comfortable prison ; and I gave directions that relaxations should be made in the prison's rule with regard to him. Mr. Harrington was removed to Galway in his own clothes. He made no objection to the prison clothes. At Galway he took exercise alone and not with other criminals, though not in the infirmary or ill ; he got a good diet, and could have anything he asked for in reason ; he had a good bed and mattress ; he had also newspapers, stationery and writing materials. I find, moreover, that in regard to other men who were convicted and punished, in consequence of speeches and writings, that the same relaxations, as were given to Mr. Harrington, were extended to them.'¹

Lord Spencer has on many occasions justified his action in public, on the ground that the Lord Lieutenant has the same authority to deal with individual cases of treatment of men in prison, in Ireland, as the Home Secretary has in England, and that it is his duty to do so, when a question of public policy is involved, as in the treatment of men convicted of political offences.²

¹ *Glasgow Herald*, Oct. 27, 1888.

² Lord Spencer, speaking at North Shields in October 1888, quoted the letter from Sir William Harcourt on which he acted in regard to Mr. Harrington. Sir William Harcourt wrote on March 1, 1883: 'In England I consider the Secretary of State has absolute authority to deal with the treatment of particular prisoners as he thinks fit under the circumstances, if the regular rules are not departed from except for special and sufficient reasons. I have so departed from the regular rules in Davitt's case. I thought in that case undue severity would do more harm than good. I did not make an official or formal order, but gave private instructions through the Prisons Commissioners to the Governor

It is worthy of note that Mr. T. Harrington while in prison was returned as member of the House of Commons, at a bye election, for the county of Westmeath by the votes of the tenant farmers, whom it was alleged he had intimidated by his speech.

of the Gaol that special leniency and indulgence might and was to be given. I should advise you to do the same as to Mr. Harrington. This advice was based on the Prisons Act of 1877, which vested the prisons of England in the Secretary of State.'—*Times*, Nov. 22, 1888.

CHAPTER VII

THE Coercion Act of 1882 was allowed to expire in 1885 by the then Government of Lord Salisbury. In 1887, the existing Coercion Act was passed after vehement and prolonged opposition. It is framed on the model of that of 1882, but is in many respects wider and more comprehensive. It cannot now be denied that it creates many offences of a purely political character, which are not offences under the ordinary law. It practically abolishes trial by jury in proclaimed districts, and hands over all the cases named under the Act to the decision of two resident magistrates, with an appeal to a County Court judge. For the first time also in our history an Act, interfering with the constitutional liberties of the people, suppressing trial by jury, and putting the right of public meeting and of public speaking under the arbitrary rule of resident magistrates, the mere agents of the Government, has been passed without limit of time, and as a permanent measure. It was only passed by means of a cloture devised for the occasion, under which discussion in the House of Commons was so cut short that many of the most important clauses and amendments were never debated. Among those amendments, which never came under review of the House of Commons, was one touching the treatment of those convicted under the Act. The Act, therefore, contained no provision on the subject. Offences under it, whatever their quality and whatever the motives which actuate them, are

treated under the Act exactly as other offences or crimes under the ordinary law.

It has already been shown that, although in some very few cases the County Court judges have directed that members of Parliament and priests should be treated as first-class misdemeanants, yet the resident magistrates have in no single case exercised this discretion, and even where they have sentenced such persons to only a month's imprisonment, from which there was no appeal, they have in all cases allowed the offenders to go to prison, as common criminals, and have refused or neglected to follow the example of the more lenient and enlightened of the County Court judges. Hence it has happened that, with three exceptions only, the twenty-two members of Parliament from Ireland have been subjected during some time of their imprisonment to the indignities and degradation of common criminals, and that in not more than two or three other cases have priests, or persons in other stations in life, been relieved of such indignities in respect of offences, which it is believed, were in the main of a purely political character.

It is impossible to acquit the Government, and especially the Prime Minister and the Chief Secretary to the Lord-Lieutenant, of direct responsibility for the grave results which have followed, in the public and national scandal caused by the treatment of so many members of Parliament, priests, and others as common criminals, for offences of a political character.

The responsibility of the Government, and especially of these two of its principal members, is brought home to them by the following considerations :—

1. That they have uniformly refused to legislate upon the subject, or to provide that certain offences under the Coercion Act of a political character should be treated in the same manner as cases of sedition and seditious libel are under the Prisons Act.

2. That they have invariably, on public platforms and in Parliament, defended the treatment of members of Parliament and others, convicted under the Crimes Act of offences such as have been described, as common criminals, and they have therefore given the cue to the resident magistrates, who have acted upon it and have declined to follow the better and more lenient example given to them by Mr. O'Connor Morris, Mr. O'Donel, the stipendiary magistrate of Dublin, and other County Court judges, of directing that such persons should be treated as first-class misdemeanants.

3. That they have refused to exercise a discretion in their administrative capacity in favour of those convicted under the Crimes Act, by directing that all or any should be treated as first-class misdemeanants. It is now certain that the Lord-Lieutenant and the Chief Secretary have full power, either through the Prisons Board, or directly, to make any directions as to the treatment of these men. In the case of the priests incarcerated under the Crimes Act, the Chief Secretary partially exercised such a discretion, and directed that they should be relieved from wearing the prison garb. It will be seen that, when public opinion and the pressure of his colleagues forced him in some other respects to give way, the Chief Secretary found no difficulty in directing that the prison regulations should be suspended in respect of three important points : (1) the use of the prison garb ; (2) the clipping of hair ; (3) the exercise with other criminals. It cannot, therefore, be pleaded that the Government was precluded from making any change.

The fullest and most authoritative pronouncement on the part of the Government on the subject of the treatment of Irish members and other political offenders was that of Lord Salisbury, at Edinburgh, on December 1, 1888, in a speech, which was one of the most ungenerous ever delivered by a Prime Minister, with respect to the

Parliamentary representatives of a people. He defined political offenders as 'those who levy, according to their power, some species of civil war against the Government of its country for the purpose of changing its form.' He denied the term to those 'who counsel other persons to swindle their creditors out of their debts.' He taunted the Irish members with 'owing their position in society to the American dollar rather than to any other element.' He denied that the practice of mankind was to treat political offenders, even in the limited sense he spoke of, in an exceptional way. He referred to the blowing away from the guns of rebels during the Indian Mutiny, and to the hanging of Riel in Canada. 'I know not,' he said, 'where this strange, maudlin, effeminate doctrine as to the treatment of political offenders has come from.' He contended that it was only customary to treat them tenderly, when all chance of their doing mischief was at an end. 'But so long as political offenders are dangerous to the community or to the State, as long as they tend to propagate themselves, and other men are likely to imitate them, so long must they be treated just as all other offenders are treated, with a view to the deterrent effect of the punishment. . . . But when I am told that there is any special ground for sympathising with political offenders, and that we cannot feel in their case the indignation that we feel against others, I think I must look a little more carefully into the motives which are alleged. I saw it stated that So-and-so had been treated as though he had been an ordinary thief or a mere felon. But when you come to motives, are you so sure that the ordinary thief or the mere felon is always so destitute of claims to human sympathy? The man who steals a loaf, or a bit of bread, or something that he can sell in order to save his starving wife and children from utter destitution, is he entitled to no sympathy? Surely such motives are as much worthy of admiration as any motives which have influenced persons,

who have undertaken the careers and professions of becoming political offenders. Of course there may be some instances in which they act from a pure and undiluted patriotism; but there are also some instances in which they act for the sake of getting a maintenance which they could not get in any other way. And there are many more instances in which they act from a bastard sort of ambition—a diseased love of notoriety. At all events, to my mind, in many cases the motives, which influence the ordinary criminals, are nobler than the motives, which influence the political offenders, on whom so much sympathy is lavished.'

'But the law does not look to motives ; it can't penetrate them. If we attempt to administer our law on that principle it must entirely break down. We look entirely to acts. It is only of acts that the law judges, and in judging of acts, those actions which tend to plunge a peaceful community into disturbance, which tend to disturb the most ancient and most acknowledged rights, which destroy all confidence between man and man, which prevent the growth of enterprise, which discourage the application of capital, which starve the wages of industry, are as much worthy of punishment as any other the law can visit.'

I have quoted this at some length, for it is important to appreciate the principles which actuated the Government. The object of the speech was to throw the greatest discredit on the Irish leaders ; to question their motives ; to hold them up to contempt ; to classify their actions as worse than those of thieves ; and even where their motives are admitted as good, to contend that their actions alone are to be looked at, and that these, irrespective of their motives, are more mischievous, as tending to 'starve labour and to drive capital away,' than ordinary crimes.

The Chief Secretary also has frequently, in Parliament and on the platform, defended the treatment of these men as

common criminals. On August 6, 1888, he said in the House of Commons :—

‘I state in the most positive manner, on my responsibility as a member of the Crown, that the one regulation which I have laid down, and which I insist upon being carried out, is this, that every person shall be treated exactly alike, without any distinction as to whether he is a political prisoner or not. A political prisoner, according to my orders, is not to be treated any better nor any worse than any other prisoner ; and he has not been treated any better or worse, so far as I have any control. . . . Never will I consent to draw a distinction between one class of offenders against the law and another.’

A further debate on the subject of the treatment of Irish members under the Crimes Act arose in the House of Commons, on December 2, and the Chief Secretary, in the course of it, spoke as follows : ‘The hon. member seemed to assume that, because these gentlemen were put in prison for being criminals through a sense of duty, therefore they should be treated differently from ordinary criminals. If that principle were carried out, it would profoundly affect prison discipline not only in Ireland but in England, and they would have to prove at the trial not merely that the accused had committed a particular offence against the law, but had committed it on conscientious grounds. Now that principle had never been admitted even in England as a ground for modifying prison rules. (Mr. Sexton : ‘Sedition and seditious libel.’) But surely there were many offences besides those which were committed on what the offender believed to be conscientious grounds. There were those persons who declined to obey the Act which ordered vaccination. Could there be a clearer case of violating an act of Parliament on conscientious grounds? If any class of the community ought to have relaxation of prison discipline extended to them, surely it was the class who refused to

obey the vaccination laws. But in all the vaccination debates he had listened to, he had never heard it urged that a person, thus committed to prison, should be placed under a different set of prison rules from those which applied to ordinary prisoners. He had never admitted that there was any distinction in criminality between those sent to prison under the Crimes Act, and those sent to prison under the ordinary law.

‘The hon. member must be aware that the prisoners, whom he described as political, had been treated with extraordinary consideration. The departure from the prison rules had always been in the direction of leniency. The hon. member for North-East Cork (Mr. W. O’Brien) had been treated with every consideration, and his health was looked after in hospital ; and he believed the hon. member for East Mayo (Mr. Dillon) had never been out of hospital for a single day while in prison.’

Apart from the pretended claim for leniency in respect of the treatment in hospital of Mr. O’Brien and Mr. Dillon, there can be no doubt as to the meaning of this speech. It justified the action of the resident magistrates in condemning these members and others as common criminals.

The Chief Secretary also lost no opportunity of throwing ridicule and contempt on Mr. William O’Brien for raising the question of the treatment of political prisoners in gaol, by resisting the prison regulations, by compelling the authorities to deprive him forcibly of his clothes, and then lying naked, or nearly so, in his cell rather than put on the prison dress. Speaking on the subject at Dublin on February 4, 1889, at the annual dinner of the Liberal Unionists of Ireland, Mr. Balfour aroused the loud laughter of his hosts by the following language—

‘I take little interest in these histrionic performances. I took a small interest only in the first representation. I take even less interest in them on the second representation.

But as, apparently, the powers of Nationalist misrepresentation have turned their full energy and vigour upon this familiar and congenial topic, I ought perhaps to say a word on the communication I have received, about a quarter to one last night—(prolonged laughter)—with regard to Mr. O'Brien's treatment in prison, and the original of which I have got in my hand. I read "illegal and brutal violence?"—(laughter)—that is not it—(laughter)—"unexampled indignation?"—(laughter)—"system of attacking and breaking down your political adversaries by torture?" (laughter). No, that is not it; here it is. "Mr. O'Brien has now been naked in his cell for thirty-six hours—(roars of laughter)—and to-night we learn that he is lying speechless, and that the prison authorities, considering his condition, have applied to you for instructions. . . ."

'Now I want to say to you that every single substantive statement in that passage is wholly and absolutely incorrect. What has happened is this: Mr. O'Brien, after an Odyssey which I will not dwell upon, was arrested in the ordinary course and was taken to Clonmel Prison. When he got there he refused to allow any medical examination; as he did not permit the doctor to form any judgment from personal examination of his case, he went through the ordinary process to which any prisoner is subject who offends against the laws.

'The Prisons Board is not in my department, and therefore it is only under exceptional cases that any questions connected with any prisoner come before me. However, when I went down to the office on Friday, the facts which I have mentioned were brought before me, and I immediately proceeded to write a minute, in which I said that, of course, if Mr. O'Brien, having the prison clothes at his disposal, chose to stay in his shirt—(laughter)—and if he refused to submit himself to any medical examination, whatever evil consequences which might ensue, he would be responsible for,

and not the Government. But at the same time I did not think we ought to permit Mr. O'Brien to ruin his constitution for the purpose of injuring Her Majesty's Government—(laughter)—and I therefore gave directions, that as Mr. O'Brien would not allow himself to be medically examined, the reports made by Dr. Ridley and Dr. Barr upon Mr. O'Brien when he was in Tullamore Gaol should be sent down at once by special messenger to the doctor at Clonmel, so that in the light of these reports, and having learned what, in the opinion of the doctor who had examined Mr. O'Brien, the condition of his health was, the doctor should most carefully watch Mr. O'Brien and take care that no eccentricity of his should in any way risk injury to his constitution.'

The tone of this speech, and the indecent bursts of laughter with which it was received, profoundly affected public opinion not only in Ireland but on this side of the Channel. On February 9, Mr. Balfour found it necessary to address the public in a more serious vein, and in a letter to Mr. Armitage, of Manchester, who had represented to him the state of opinion in Manchester, he attempted a defence of his treatment of Mr. O'Brien. He accused Mr. John Morley and other speakers of mendaciously misquoting the speech for which Mr. O'Brien was prosecuted. 'On the evidence,' he said, 'of these impartial critics of the Government all England has been invited to believe that Mr. O'Brien is now in gaol for saying something disrespectful about the Primrose League! His real offence was very different, and a glance at the report of his trial in the "Freeman's Journal" would have shown the most careless reader that the part of his speech, on which the Crown relied, contained something more interesting than his views on the Primrose Dames. Take, for instance, these sentences: "I am afraid land-grabbers are busy and thriving in the midst of you. If all our labours for the last ten

years have not been in vain, you ought to know how to deal with the land-grabber." I say, without fear of contradiction, that a Government which should allow words like these to be uttered, with whatever intention on the part of the speaker, in a district in Ireland where there were evicted farms, might be making itself accessory to assassination.'

'I now turn to the particular falsehoods respecting Mr. O'Brien's treatment in prison, which, as you inform me, have produced a certain impression in Manchester. In a speech of Saturday last, in Dublin, I gave a general contradiction to them, but, so far from having succeeded thereby in calming the fears of Mr. O'Brien's friends, I have apparently only raised their wrath by what they are pleased to term the heartless flippancy with which I treated his sufferings. They forget that, according to my belief, those sufferings were imaginary ; and they can hardly maintain that Mr. O'Brien is so sacred a subject that even a lie about him should be treated with reverence and solemnity.' He then proceeded to give a denial to some of the statements which had been made about Mr. O'Brien's treatment in gaol.

'The Gladstonian agitators,' he said, 'seem to be in some perplexity as to whether they shall regard Mr. O'Brien as the moribund victim of a heartless tyrant or as the successful asserter of the right of every man, who preaches the worst form of intimidation, to special treatment, as a "political prisoner." I have shown that he has no title, and I hope no desire, to figure in the first of these capacities. Neither has he any title to figure in the second. In accordance with the ordinary prison rules, that treatment was modified, when the doctors consulted expressed the opinion that a man of Mr. O'Brien's temperament and physique might seriously injure his health by his obstinate refusal to dress or to take ordinary exercise. Mr. O'Brien has found—I do not say sought—refuge behind a medical certificate, and though his views about prison clothes are certainly excep-

tional, there is nothing exceptional in any part of his prison treatment except the caution with which it has been administered. He is an ordinary prisoner subject to ordinary rules.'

In the same strain the Prime Minister, speaking a little later at Watford, on March 19, cast his scoffs and gibes at his political opponent in prison. He spoke in contemptuous terms of the 'tragic nudity of Mr. William O'Brien and of his lying on his back and kicking at a warder.' He justified treating Mr. O'Brien as a common criminal on the ground that he had 'in language not so crude as I have used, but perfectly distinct, urged upon all who heard him that men who took unlet farms should be treated as they have been treated during the last ten years ; that is to say, that they should be murdered and robbed, their cattle shot and ill-treated, their farms devastated.' For this strong language Mr. W. O'Brien, immediately after being released from gaol, commenced an action for libel against the Prime Minister.

In the meantime public opinion had not been satisfied by Mr. Balfour's speeches and letters on the subject of the prison treatment of Mr. O'Brien and other members, and the whole subject of political prisoners came under discussion in the debate on the Address at the opening of Parliament in the present year, and later, on a Bill introduced by the Irish members, which sought to provide that those convicted under certain clauses of the Crimes Act should be treated as first-class misdemeanants.

In the first of these debates Mr. Balfour, on February 25, declared himself in the most emphatic terms against any concession. He spoke of the 'imaginary horrors alleged to have taken place in connection with Mr. O'Brien,' and of the calumnious stories against the prison authorities by the Government. He denied that it was his duty to interfere with the treatment of prisoners. 'The Prisons Board in

Ireland,' he said, 'bears precisely the same relation to the Lord-Lieutenant and the Chief Secretary as the Prisons Board in England bears to the Home Secretary, and that is not a relation of a department to its chief. The interpretation which is received at the Home Office is that the Home Secretary has not direct control over the destinies of prisoners. It is his business, no doubt, in conjunction with Parliament, to frame laws for prison discipline, but it is not the business of the Home Secretary to control the separate destinies of individual prisoners. How comes it, then, it is said, that we have relaxed the rules in favour of priests? I have never concealed from the House that it was, in my opinion, a doubtful point whether that relaxation was not a straining of the Act. But I made inquiry, and I found that in England precisely the same relaxation is made when questions of religious feeling or religious prejudice come into account. In one case I deal with a perfectly defined class. I deal with that class not by way of making their punishment less than that of their fellows, but by making that punishment equal.' Proceeding then to argue the question of the treatment of political prisoners, he said: 'There are three arguments in favour of the distinction of treatment between the Crimes Act prisoners and other prisoners. There is the distinguished and popular man's argument—the argument which says that, because a man is a good speaker, or happens to be popular with his countrymen, he is not to be treated as an ordinary prisoner. Next there is the genteel argument—the argument that because a man has been brought up in circumstances of luxury and comfort he therefore ought to be treated more tenderly than the man who has had a rough life and who has had harder fare. There is the third argument, that there are political offenders, who ought to be treated with greater leniency than would be the case if they had committed ordinary offences.' It is not necessary to advert to what he said upon other than the

last of these arguments. He denied that the Irish leaders were political offenders. 'These men have stated over and over again that they are carrying on the work of the rebels of '98, the rebels of '48, and the rebels of '68. Some of them have announced that they adhere to the physical force party. They tell us they are engaged in operations which practically mean rebellion, or are intended to carry on the work of rebellion, and that therefore makes them political offenders. Yes, and it makes the dynamiter a political assassin; it makes the political assassin a political offender; and until you are prepared to carry out your principle to a logical conclusion, until you are prepared to say that the man who attempts to blow up the House or to murder a Chief Secretary is to be treated with special relaxation of the prison rules, your political offenders argument falls to the ground.' He alluded to the arguments as to offences against the Vaccination Laws and against the Corrupt Practices Act. He pointed out that Mr. Cuninghame Graham had been treated as a common criminal for attempting to hold a meeting in Trafalgar Square. He ended by saying that 'he would not, as long as he was Irish Secretary, admit that any man had earned special privileges in an Irish prison, because he had been engaged in the shocking crimes, for which members of that House had been imprisoned under the Crimes Act.'

In spite, however, of all these brave words and of the contemptuous gibes of the Chief Secretary and the Prime Minister, when the issue was raised in the House of Commons the Government were unable to stand to their guns. It is currently reported that there were difficulties in the Cabinet on the subject of the prison treatment of those convicted under the Crimes Act. It is a notable fact that no other member of the Cabinet, with the exception of Mr. Goschen, has ever attempted to say a word in defence of Mr. Balfour's prison policy. Many of the rank and file of the party were known to be much exercised in their minds on the

subject. The treatment of such men as Mr. O'Brien and Mr. Dillon as common criminals did not commend itself to large bodies of Tory working-men. It was necessary to give way to some extent. If not, the Government would certainly have suffered a dangerous defeat on the Bill for extending to those convicted under certain clauses of the Crimes Act the treatment as first-class misdemeanants.

The discussion on this measure took place on March 13, and after beating about the bush for some time, after again and again accusing the imprisoned members of having committed crimes of a gross character, after reiterating his statement that he saw no distinction that could be made or ought to be made in favour of prisoners, who were committed under the Crimes Act, the Chief Secretary announced the intention of the Government to yield to public opinion, and to make considerable changes in the prison rules of Ireland, pending the report of a departmental committee which he proposed to appoint. He said that he had never been able to understand on what principle such things as prison clothes, hair-cutting, and things of that kind had been enforced on any kind of prisoner, wholly irrespective of his condition.

'It certainly appears to me,' he said, 'in so far as I can understand the philosophy of punishment at all, that these kinds of punishment, which do not inflict discomfort, but which are thought to inflict degradation, need not and ought not to form part of the penal system, because the evil of that punishment is this, that the hardened criminal is not punished by it at all. The hardened and habitual criminal suffers no degradation or discomfort by being compelled to put on the prison clothes and all the rest of it, and to the tramp, who has not got a good suit of clothes, I believe it may be a positive luxury to get the prison clothes.' He proposed to appoint a committee to consider the subject, and 'possibly by their advice the Government may be able to

remove any shadow or semblance of grievance connected with any class of prison treatment.'

The Chief Secretary ended by saying that 'he could not sit down without expressing, in the strongest language, the conviction that it was not the gentlemen who had urged boycotting, who had urged resistance to the law, or who had carried on the agitation which had been so persistent in Ireland, who were entitled to special consideration, but those other prisoners who had been condemned under the Vaccination Act and in connection with the Salvation Army, and who are the class of prisoners who chiefly command sympathy, and who ought to receive the benefit of any modification which may be made in the law.'

CHAPTER VIII

IN accordance with the decision of the Government new rules were hastily adopted and issued by the Irish Prisons Board, on March 17, with respect to prison clothing and the clipping of hair. In spite of all that had been said by the Chief Secretary as to his inability to interfere with the treatment of prisoners, it was found that he had no difficulty in effecting whatever changes he thought fit. The Prisons Board in Ireland is a mere department of the Government, completely under the control of the Chief Secretary, and with no independent will of its own. By the new rules the authorities of any prison are authorised to dispense with the prison dress and with the clipping of hair in any case where it may seem to them to be unnecessary to insist upon them, in the interest of health and cleanliness. They are also given full discretion with respect to the exercise of prisoners, but nothing is said as to how that discretion is to be exercised.

These rules appear to have been framed so as to effect the main object of avoiding the scandal of Irish members being compelled by force to wear the prison dress and to exercise with other criminals, and at the same time to preserve for Mr. Balfour the semblance of consistency and persistency. He had in the most positive manner proclaimed that never, while he held the post of Chief Secretary, would he allow any distinction to be drawn in respect of prison treatment between prisoners, convicted under the Crimes Act, and other criminals. He was now

prepared, however, to draw invidious distinctions between the treatment of different classes of criminals, between prisoners who have decent clothes of their own, and those whose clothes are bad. The gaol authorities were to decide what prisoners should be relieved of the indignity of the prison dress and of exercise with other criminals, and they would naturally make their selection in favour of the well-to-do prisoners.

A case occurred soon after the passing of these new rules which supplied an apt illustration of their working. Three or four well-known Belfast men, in a good position in society, were in Derry Gaol, under sentence of imprisonment for very serious crimes. They had by fraud and forgery effected insurances on the lives of a number of persons, addicted to drunkenness, or in dangerously bad health, and had then endeavoured to hasten the falling in of the policies of insurance, by giving facilities to the drunkards of frequent potations of spirits. It would be difficult to conceive worse crimes of this kind. Under the new rules these forgers were permitted to give up the prison dress and to resume their own clothes, and were relieved from taking exercise with other criminals. Father Stephens and Mr. Kelly were in the same prison under the Crimes Act for having advised the Gweedore tenants to combine against the payment of excessive rent. Under the new rules they were directed to exercise with the Belfast forgers. On refusing to do so, they were deprived of exercise for some days, and were then directed to take exercise separately!

Another incident has occurred showing the spirit in which the prison rules have been worked. It appears that five prisoners, two of them members of Parliament, confined at Tullamore under the Crimes Act, were no longer compelled to take exercise with other prisoners, but were allowed to exercise together. On this becoming known to the Prisons Board at Dublin, directions were issued that these pri-

soners were not to be exercised together, but were to be exercised separately, so as to deprive them of the little relaxation from the tedium of their prison solitude of seeing something of their fellow-sufferers.

Apart from such incidents, the result of the new rules has been that the Irish members and a few others of those imprisoned under the Crimes Act have been relieved from the indignities of the Prison Rules, with respect to the prison dress, the clipping of their hair, and the exercise with other criminals ; but they have remained subject to all the other severities of the Prison Rules which distinguish the treatment of common criminals from that of first-class misdemeanants. All these have been maintained with strictness ; and the political prisoners have continued to be subjected to the plank-bed, they have been fed on the prison fare, they have been deprived of all materials for reading and writing, they have not been allowed to see their friends, or to communicate with them by letter.

In the same spirit, with the same persistency in refusing to recognise any distinction between political prisoners and others, or of recognising the Irish members as political prisoners, while yielding somewhat to public opinion, the Government, in appointing a committee of inquiry expressly limited it to the two points of the prison clothing and the hair clipping, and absolutely excluded any reference to other prison rules, or to the expediency of treating political prisoners differently from other criminals. In a letter to the chairman of the committee, Lord Aberdare, Mr. Balfour said : ‘One of the grounds on which compulsion to wear the prison dress, and to submit to clipping the hair, has been objected to in certain cases, depends on the character of the offences committed by the prisoner. This argument involves the whole question of the classification of prisoners according to the real or supposed motive of their offence,

and it is not proposed to refer the consideration of it to your committee.'

The inquiry, thus unfairly limited, has been, as was to be expected, of very little value. The report throws little light upon the main subject at issue—namely, the treatment of political prisoners. Inferentially the committee condemn the action of the Irish Government, for they unanimously reject the extension to England and Scotland of the new rule with respect to prison clothing so hastily passed for Ireland. 'No necessity,' they say, 'has been demonstrated for so sweeping a change, involving serious danger to the administration of the prisons and the safe custody of prisoners. To permit one man to wear his own clothes, while a poorer, and not more criminal prisoner, is compelled to wear the prison dress, would introduce an invidious and irritating class distinction, which would greatly add to administrative difficulties, and which ought not to be sanctioned without strong reasons, and even then should be fenced about with all possible safeguards.' With respect to Ireland, they say that sufficient time has not yet elapsed to allow them to form a decided judgment as to the effect of the new regulations. They add that, if it should be thought desirable to make an extension of the prison rule respecting clothing, they recommend that the following conditions should be observed :—

'1. That the existing rule, requiring prisoners to wear the prison dress, should be maintained with respect to prisoners sentenced to penal servitude and imprisonment with hard labour, as well as to prisoners convicted of felony and all misdemeanours involving fraud. To these should be added prisoners convicted of the graver and grosser forms of violence, which should be enumerated, and should not be left to the discretion of the judges and magistrates.

'2. The remaining prisoners, sentenced to simple terms of imprisonment, might be allowed to make application to

the chief officer of the prison for permission to wear their own clothes, under such rules as the Secretary of State may be prepared to make.'

With respect to the clipping of hair, the committee recommend that this rule should depend wholly on sanitary grounds. They point out that the existing rules appear to be founded solely on this basis, and that the humane practice has long prevailed of allowing the hair to grow for some weeks before the expiration of the sentence, so as to save the prisoner from observation and annoyance when released. They condemn in strong language the treatment of Mr. Edward Harrington in this respect, as also the treatment of two members of the Salvation Army, who were imprisoned, one for seven days and one for twenty-four hours, and whose hair during these short periods had been cut very short.

From the general tenor of their report, it is evident that the committee have felt themselves greatly hampered by the instructions that they were not to consider 'the classification of prisoners according to the real or supposed motive of their offence.' They evidently recognised the necessity for some classification. They have endeavoured to arrive indirectly at this result by recommending that the rule as to prison clothes should be applied only to those convicted of offences ordinarily regarded as 'crimes ;' and that they should be confined in a separate prison. If these recommendations should be carried out, the prisoners excluded from the rule would be those convicted of offences either political in their character or not commonly considered as crimes.

It is much to be regretted that the committee was not instructed to report upon the whole question of the treatment of prisoners convicted of political offences or quasi-political offences, including not only those convicted under the Crimes Act of 1887, but also those convicted of offences against the law of public meetings, in which members of the

Salvation Army, and men like Mr. Cuninghame Graham, have been sent to prison, and also offences such as infractions of the vaccination law. There may be some few other offences of the same kind which come within the same category.

It need scarcely also be pointed out that the questions of prison clothes and clipping of hair constitute but a small part of the treatment of common criminals as distinguished from that of first-class misdemeanants. It has already in an early chapter been shown that there are eleven principal points of distinction in such treatment.¹ Of these three may be ranked as distinctions involving indignity and degradation, viz. the prison clothes, the clipping of hair, the exercise with other criminals. The other eight distinctions of treatment involve hardship and suffering, viz. the plank-bed, the prison fare, the deprivation of materials for reading and writing, of correspondence, of the visits of friends, &c. &c. Mr. Balfour has practically given way with respect to the first three distinctions. While refusing to recognise that any prisoners under the Crimes Act are entitled as political offenders to any indulgence or exceptional treatment, he has been compelled by public opinion to concede the claim in respect of those points involving indignity, at the expense of introducing confusion into the administration of the Irish prisons, but he still refuses to give way in respect of those prison rules involving suffering and hardship. The three points on which he has given way are those where the prisoners were able, by resistance and refusal to comply with the rules, except under compulsion, to raise the issue in a manner which forced public attention to the subject, and which compelled the Government to yield. On all other points there is no opportunity for the prisoners to make any protest; once under lock and key of the prison they must submit to the prison treatment in these

¹ *Supra*, p. 5.

matters. The protests of Mr. O'Brien and others against the prison clothing and the exercise with criminals were intended to cover all these other points, and were not confined to these special points of their treatment. All the more important is it, then, that public opinion should be brought to bear on these other matters, where the political prisoners must suffer in silence and where active resistance is impossible. It has already been shown that in past times the remonstrances of leading men in Parliament, such as Lord Brougham, Mr. O'Connell, Serjeant Talfourd, Mr. Duncombe, Mr. Hume, and others, were directed not so much against the prison clothing as against the harsh treatment in respect of the plank-bed, the prison fare, and the deprivation of all materials for reading and writing, and that successive Governments have been induced or compelled to give way on these points, in respect of offenders such as Henry Vincent, Feargus O'Connor, Richard Pigott, and others.

Of the distinctions of treatment, involving hardship and suffering, unquestionably the worst, is the deprivation of reading and writing. To educated men, to active politicians, and to men connected with the Press, as have been so many of the Irish members and others, convicted under the Crimes Act, this is a most serious punishment, one far worse than is hard labour to a labouring man. To spend weeks and months in gaol with absolutely no occupation for the mind ; to be forced to gaze upon the blank walls of the cell without even a view, through the window, of anything beyond it ; to sit in the cell in solitude, unbroken save by the periodic call of the warder—such treatment involves punishment of the most severe kind to educated men, and which few can undergo without serious and permanent injury to the mind and health.

On this point there will be found a letter in the Appendix from Mr. Wilfrid Blunt, who was sentenced to two months' imprisonment under the Crimes Act, in which he

describes the mental torture he went through on account of the deprivation of reading and writing. During the first week, he occupied himself in composing the most admirable sonnets, which he has since published under the title of 'Prison Lyrics.' He wrote these on the flyleaf of his Prayer-book with a pencil he had secreted. After a week, his imagination failed him owing to his general treatment, of low diet and want of exercise, and he was unable any longer to occupy himself in this manner. Mr. Blunt appears to have been treated with exceptional leniency in many respects. He was not compelled to take exercise with other criminals ; he was not forced to clean out his own cell ; when he was summoned to give evidence in his civil action against the police-officer who had prevented his holding the meeting at Woodford, the authorities offered him his own clothes, in lieu of the prison dress, and did not force him to appear in the witness-box in the prison garb, as in the cases of Mr. E. Harrington and Mr. Sheehy. It was by his own desire he appeared in Court in his prison dress. While in gaol, the prison authorities and warders treated him with exceptional courtesy and in no way as a criminal. This has not been the experience of many of the Irish members. The prison doctor also appears to have relieved him of some of the minor hardships of the gaol. In spite of all this, Mr. Blunt, as is well known to his friends, suffered severely in health from his two months' imprisonment, and has been long in recovering.

What, then, must be the case with many others, who have been allowed no relaxation, and whose terms of imprisonment have been much longer ? It is certain that many of the Irish members and others, who have undergone this punishment under the Crimes Act, have been seriously and permanently injured in health.

There can be no doubt that such treatment of these members and others has profoundly shocked public opinion in Ireland ; it has also roused indignant opposition in large

masses of people in England and Scotland, which was partially allayed by the tardy concession on the part of the Government in respect of the prison clothes. It has elicited the strongest protest from eminent men of all parties in the United States and in our colonies.¹

If the view taken in these pages of the acts for which the Irish members have been convicted, sentenced, and punished be a just one, if these men have acted, not from any mean motive of private interest or with vindictive malice, but with a sense of public duty to the Irish people and to their constituents, and without any criminal intent in the ordinary sense of the term, then undoubtedly they are entitled to be considered as political offenders, and, according to the recognised usage in civilised countries, they should not be classed with and treated in the same manner as common criminals, with all the indignities and hardships of the gaol.

The exceptional treatment which is accorded to political offenders by all civilised countries, including till lately our own, is the result of long experience in dealing with such cases—experience which only confirms what may be arrived at from a study of human nature and the motives which actuate it.

The object of punishment is to deter people from committing certain acts. Ordinary crimes are acts against Society or individuals, committed with base, selfish, malicious and brutal motives. Those who commit them, as a rule, belong to a class low, ignorant, and degraded. To render imprisonment deterrent to such people, it must necessarily be harsh, rough, and degrading. In the comparatively few cases where persons in a better position in life commit such crimes, the degradation and hardships which they have to submit to in gaol, are not unmerited aggravations of their punishment,

¹ The *Freeman's Journal* has recently published the protests of a great number of eminent men in the United States and Canada against the prison treatment of the Irish members.

as compared with criminals of a lower class, having regard to the fact that their offences are the greater in proportion to their means, education, and status.

The political offender, however, is not actuated by selfish or malicious motives. He is influenced by public, political, and honourable, even if misguided and mischievous, motives. It may be necessary for Society, in the interests of its safety and well-being, to imprison him; but to treat such a man as a common criminal, to associate him with other criminals, to subject him to the indignities and hardships of the gaol, found necessary in other cases, to deprive him of all occupation for his mind, are unnecessary aggravations of the treatment: the only effect is to exasperate the political offender and his friends and associates. The subject of it comes out of prison a martyr to his cause, and with increased respect and admiration of his followers. His example, his sufferings, the fortitude with which he has borne the hardships of the gaol, have only the effect of stimulating and inducing others to tread in his steps and to share his fate. Methods of punishment, which create sympathy in large classes of persons for the person against whom they are directed, have the opposite effect from that which is intended. So far from deterring, they tend to promote the cause which it is hoped to suppress or reduce.

What acts should be classed as political offences, it is not easy, by a hard and fast line, to define. No attempt has been made in the criminal codes of other countries to draw such a line. It is left to the administration of each country to determine in individual cases whether the prisoners are to be ranked as political offenders or not. But everywhere in practice a very wide extension has been given to the term. There can be no doubt that there is no country in Europe where the Irish members and others would have been treated as common criminals, as they have been in Ireland under the Crimes Act.

The conclusions, then, to which the foregoing facts and arguments lead are these :—

1. That the Irish members and others have been convicted of acts and speeches, which had for their motive political objects, and which were not crimes in any true sense of the term ; and that even those, who do not approve of their methods and language, must at least admit that they have been actuated by a sense of public duty to their constituents and to the people of Ireland.

2. That the movement in which these men have been engaged is mainly an agrarian one, and that it had its origin in the failure of Parliament to meet the Parliamentary claims of the Irish tenants for legislation at the time when it was most needed.

3. That, in accordance with the practice of other civilised countries, and of our country in past times, such men, if the Legislature should think it expedient to restrain and condemn their actions by imprisonment, should at least be treated as political prisoners, and should not be subjected to the indignities and sufferings which, with general assent, are applied to those who have been convicted of criminal acts of a disgraceful and degrading character. That the arguments in favour of this course are immensely strengthened by the fact that three-fourths of the Irish people, a large majority of the Scotch and Welsh peoples, and possibly a minority only of the English people, heartily sympathise with these men, and are vehemently opposed to the Act under which they have been convicted and imprisoned, and that these men could never have been convicted by any juries that could have been fairly impanelled in any part of the United Kingdom.

4. That the Government is directly responsible for the scandal and dishonour to the country caused by the treatment of these men as common criminals. That it deliberately determined on such treatment, and has on every occasion

justified, applauded and defended it. That the speeches of the Prime Minister and the Chief Secretary for Ireland have given the cue to the resident magistrates and the County Court judges in Ireland to persist in sanctioning these men being treated as common criminals, when it was open to them to have directed that they should be treated as first-class misdemeanants. That by language of a different character, or by the special intervention of the Government, or by the alteration of the prison rules, the scandal and injustice of treating such men as common criminals might early have been avoided.

5. That, in addition to their treatment as common prisoners, these members and others have been treated on many occasions with designed, exceptional, and needless indignity, intended apparently to bring them into contempt with the people of Ireland and Great Britain.

6. That the policy thus pursued has been a mistaken one even from the point of view of the Government itself ; that it has not succeeded in the main object of all punishment—that of deterring these men and others from committing the acts which it was intended and hoped to restrain. That it has resulted in increasing the influence of those subjected to it ; that it has been an inducement to others to follow their advice, and has robbed the gaol of its terror for large numbers of people ; and that it has generally brought the criminal law into contempt and hatred.

7. That the relaxation of the prison rules in respect of the prison dress, the clipping of hair, and the exercise with other criminals, while tending to confusion in the discipline of Irish gaols, by creating distinctions in the treatment of prisoners according to their means, are altogether insufficient to meet the case which is made out on behalf of political offenders ; and that prisoners under the Crimes Act other than those convicted of violence and of crimes, commonly so considered, should be exempted from other

hardships and sufferings of the gaol in the same manner as first-class misdemeanants.

8. That a careful revision is needed of the law respecting the prison treatment of other offenders of a political or quasi-political character, so that persons convicted of breaches of the law relating to public meetings or public speeches, or infractions of the Vaccination Acts, should also be exempted from the indignities and sufferings attaching to those who have been convicted of crimes of a base and degrading character.

9. That, pending legislation on the whole subject for the United Kingdom, it is quite possible for the Government in Ireland, either by an alteration of the prison rules, or by its administrative authority, to effect the changes in the treatment of prisoners under the Crimes Act which are required by the justice of the case, and by wise considerations of expediency, and which may yet prevent this country being a reproach among other civilised communities in respect of its prison policy towards political offenders.

APPENDIX

MEMORANDUM OF MR. WILFRID BLUNT ON HIS TREATMENT IN IRISH PRISONS.

I HAVE been asked what are the principal hardships of the Irish prison treatment, as I experienced them last year, and on what points special protest should be made.

My own experience was probably lighter than that of many others, just because the prison officials, from highest to lowest, did what they dared to soften it for me ; and secondly, because on some points my ordinary habit of life had prepared me for certain privations.

Of the physical hardships of prison I do not, therefore, much complain. The food given me was of good though plain material, and sufficient for my wants. I am a teetotaller and no great eater. The worst result was a weakness of digestion, which lasted some months after my release ; but I attribute this rather to the lack of exercise than to the quality of the food. The clothing also in my case was sufficient. I was allowed to retain all my underclothing by order of the doctors, and my own shoes, because there were no prison shoes I could have walked in. My chief personal discomfort was the impossibility of much cleanliness. I was allowed a bath once a week. I did not suffer greatly from the plank-bed, as the doctor ordered me a sufficient supply of blankets. I am used to sleeping on the ground. What I suffered from terribly was sleeplessness, caused by the close confinement ; and the hardness of my bed doubtless aggravated this. I usually spent the whole night in Galway Gaol, say from ten till six, for I generally could sleep the first two hours, without missing a single stroke of the clock or a single round of the night warder, and those long hours and

darkness were the severest features of the twenty-four hours punishment. In the daytime, it being mid-winter, the darkness of my cell was a great trial. I was without fire, and it was only for a few hours in the middle of the day that it was light enough to read. In Kilmainham, where I spent the second month, the window was high up and of 'ground glass,' so that I could not so much as see the sky. This is a point of detail which in humanity should be changed. Under these circumstances of darkness the prisoner is thankful for the oakum he is given to pick. The finer sort of oakum is a material pleasing to the eye, and it was a pleasure to me to shred it out to its extremest fibre. On Sundays this oakum was taken away.

The lack of occupation for the mind is indeed the most terrible of all the features of modern prison treatment. During the first week of my imprisonment I was without books, except my Prayer-book, for the Bible given me was of too small print to be read in the dim light ; and it was only by a vigorous remonstrance with the justices, and in contravention of rules, that I obtained a larger volume. Then for a while I was happy. The governor allowed me—contrary to the rule—to keep my blankets by day, and I used them as a divan where I could sit upon the ground, and, while light lasted, I could read the Old Testament stories of patriarchal life in desert places, and of the wars and misfortunes of kings, and of God's vengeance on the enemies of His people. There is no book more consoling to a political prisoner. But in Kilmainham my bed was taken from me and set up against the wall, and I was left with only a stool chained to a small deal table. My large Bible, too, was taken, and in its place I had a history given me of the Church, abominably printed, and with all allusions to Ireland carefully eliminated. At the best there were not above four or five hours out of the twenty-four when I could see to read, for my eyes suffered from the low diet, and I have since been obliged to use glasses. I consider the deprivation of light, of books and of writing materials to be by far the severest punishment inflicted on educated prisoners. During the first week in Galway I wrote most of the sonnets I have since published, writing them in the flysheets of my Prayer-book with a scrap of lead-pencil I had managed to procure. These occupied me during the

dark hours, but later, under the depressing influences of silence, low diet, and weaker vitality, I found imagination fail me. During my last fortnight I could do nothing rational but count the hours yet to elapse, and I think that if it had been announced to me that the day of release had been postponed for another month, I should have permanently suffered in my mind. As it was, I left prison in the condition of one who had had a long illness, weak in body, nervously depressed, and ready to cry at a word.

The last few days I was given two novels, one of which was Victor Hugo's 'Notre Dame de Paris,' which I imagine evaded the prison censorship on account of its title. It aggravated my depression with its tragical misfortunes ending with a dungeon and the gallows.

Histories, encyclopædias, magazines—anything with the solid material of fact is what is needed by a prisoner's mind—not, I think, works of imagination. Then, too, there is the question of writing materials. What good purpose can be gained by forbidding these I cannot imagine. A few sheets of paper and a pencil would have made the whole difference between a tolerably contented acceptance of my confinement and a perpetual mental torture. There are few prisoners so dull but they could write something, or draw, or do sums, while the more intelligent could set themselves class problems on the construction of anagrams. But it is a barbarous thing to deny these to men who are denied the right of speech or outdoor amusement, or any kind of interesting exercise.

With regard to the question of prison clothes, you know I have always considered O'Brien's protest most admirable and necessary. It was the one salient point of the rough gaol treatment which he could attack, and he did so, I am delighted to see, triumphantly. The ordinary prisoners are ordered about by the warders like hounds in a kennel, and to this no political prisoner ought to be subjected. I did not myself submit to it, and I exacted respectful treatment from all. My feeling about the clothes was less strong. To me it seemed that the prison dress was to an Englishman in Ireland a most honourable one; the only uniform, in fact, of Her Majesty which had not been disgraced. Nevertheless, you will remember, I *did* protest



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against the clothes as insufficient and indecent, and I *did* obtain what I required. It is a disgraceful spectacle to see, as I often did in Kilmainham, old men—past sixty years of age put into boys' jackets with a gaping space of shirt betwixt jacket and trousers, and ordered about by some young jackanapes of a warder as if they were schoolboys, and all perhaps for street-begging. The prison clothes should be of decent cut and provided with jackets where the prisoners could keep their hands warm in the long winter days.

The other chief points to be insisted on are—

Respectful treatment for political prisoners, and, I will add, for old men.

Better ground for exercise, where the prisoners could see something more than stone walls and the pavement.

Windows with clear, not ground glass.

Last, and principally, books and writing materials.

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